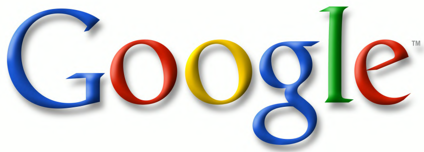
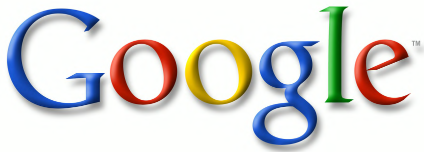




1. Criminal law — France.





THE

PENAL CODE

OF

FRANCE,

Translated into English;

WITH

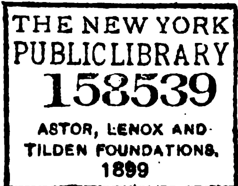
A PRELIMINARY DISSERTATION,

AND NOTES.

LONDON;

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Preliminary Dissertation.

THE present translation of the "CODE PENAL" has been undertaken, in the hope, that a more general acquaintance with the provisions of that Code, at this particular time, may, in some degree, assist the study of legislation; a science intimately connected with the peace and comfort of social life, and upon which a mass of intellect is now employed in almost every nation of civilized Europe.

It is by a mutual and friendly interchange of sentiments amongst enlightened men of different countries, laying aside their respective national prejudices, that systems of legislation and jurisprudence are most likely to be ultimately established, upon just principles, for securing, so far as human institutions can secure them, the liberties and happiness of mankind. May we not look forward, with hope, to the time when it will be possible to ascertain such of those leading principles as are common to all nations, and upon which the legislature of each may engraft particular laws, adapted, exclusively, to its own peculiar situation and circumstances; retaining, however, a common system of arrangement;—and when the civil and criminal laws of every state may be expressed with clearness, certainty, and brevity; so as to form a real guide to the people, whose lives and fortunes are subject to them?

We cannot, perhaps, expect any great effort for the accomplishment of this important object, from such of the

English lawyers as are most distinguished for learning and talents; but who, for that very reason, find their time and attention laboriously occupied, in the various departments of professional practice. It may also be observed, that perfect impartiality is not within the power of man; and those who have advanced themselves to rank, wealth, and consideration, by the practice of the existing law, are naturally disposed to regard, with a favourable eye, the system which has been just to their merit; to think that the science, which it has cost them the labour of a life to acquire in perfection, must be, in all respects, worthy of the sacrifices they have made for it; to identify its honour with their own; and to oppose, too indiscriminately, all attempts at alteration.

How few men have been found, how few can we expect to find, who, like the late Sir Samuel Romilly, shall unite the talents which raise a lawyer to the head of his profession, with that earnest and persevering desire to promote, on an extended scale, the interests of justice and humanity, which induced him to add to his professional labours the task of reducing into form his plans for the improvement of the law; submitting them repeatedly to the legislature, and pleading for their adoption; unwearied by opposition and frequent disappointment, and unceasing in his exertions, while he considered a prospect of success to remain.

But the loss of this eminent person does not extinguish our hopes of seeing carried into effect those attempts at improvement, in which, unhappily, he has not lived to assist.

The idea of digesting the English law into a more orderly and convenient form, than that in which it now appears, has been entertained by many of those who have made that law their study. Dr. Burn, in the conclusion of his well-known work, assures us that this task, so far as concerns the statute law, "seemeth no way impossible to be done, "by any person of a tolerable understanding, endowed only

"with a clear head and much patience;" and that book is itself an excellent digest of those branches of the law which it professes to treat.

Mr. Evans, Vice-Chancellor of the County Palatine of Lancaster, has lately undertaken, and performed with great ability, a classification, in eight volumes, of our existing statutes. For this work the profession and the public are much indebted to him: its condensed form and methodical arrangement make it useful to the lawyer, and the editor's notes and appendix cannot fail to interest the learned reader, or to afford valuable assistance to those who shall originate, or be called upon to consider, any improvement of the law.

To several heads of the following Code, notes are subjoined, stating the number of English statutes now in force, upon the same subjects, with the corresponding title in Mr. Evans's Collection. It would have been easy to make, at much greater length, a comparison between the French and English law, but the only object of these notes is to shew into how much less room the French legislators have been able to compress their rules, upon some subjects. There are upwards of 750 acts of parliament applicable to criminal law, besides 380 which relate to proceedings before Justices of the Peace. All these are divided by Mr. Evans into 40 classes, comprised in his four last volumes. The foreign reader should recollect, that the statute book contains only a portion of the laws of England; being the alterations which have been, from time to time, made by parliament, in the *common* or *unwritten* law. This last is to be collected from the decisions of the courts, upon particular cases, which are published by individuals under the name of *Reports*.

The learned compiler of the statutes, above referred to, bears his testimony to the expedience of a revision. "It certainly is difficult," he says, "to conceive upon what principles it should be assumed, that, while every other science

"has been progressive, and followed the natural course of "observation and experience, in the correction of errors and "the extension of useful discovery, the sciences of legisla- "tion and jurisprudence should alone be considered as "stationary or retrograde."—Appendix, No. II, page 26.

This opinion is confirmed, by that of one who ranks as the most profound and enlightened philosopher of the present day.

"Among the many circumstances favourable to human "happiness in the present state of the world, the most im- "portant perhaps, is, that the same events, which have "contributed to loosen the foundations of the ancient fabrics "of despotism, have made it practicable, in a much greater "degree than it ever was formerly, *to reduce the principles "of legislation to a science*, and to anticipate the probable "course of popular opinions. It is easy for the statesman to "form to himself a distinct and steady idea of the ultimate "objects at which a wise legislator ought to aim; and to "foresee that modification of the social order to which hu- "man affairs have, of themselves, a tendency to approach; "and therefore his practical sagacity and address are li- "mited to the care of accomplishing the important ends "which he has in view, as effectually and rapidly as is "consistent with the quiet of individuals, and with the "rights arising from actual establishments.

"In order to lay a solid foundation for the science of po- "litics, the first step ought to be, to ascertain that form of "society which is perfectly agreeable to nature and to jus- "tice; and what are the principles of legislation necessary "for maintaining it. Nor is the inquiry so difficult as "might at first be apprehended; for it might be easily "shewn, that *the greater part of the political disorders, "which exist among mankind, do not arise from a want of "foresight in politicians, which has rendered their laws "too general*, but from their having trusted too little to the

"operation of those simple institutions which nature and "justice recommend; and, of consequence, that, *as society "advances to its perfection, the number of laws may be "expected to diminish, instead of increasing, and the "science of legislation to be gradually simplified.*"—Stewart's Elements of the Philosophy of the Human Mind, vol. I. pp. 249, 250.

The French Codes are the work of the revolution;—till that period France consisted of many states and provinces, governed each by its own laws, varying much from each other, but of which the chief distinction was that which divided the kingdom into the *païs coutumier* and *païs de droit ecrit.*

In England, we know, by experience, the inconveniences inseparable from an unwritten law. At some period, lost in remote antiquity, some chief, who had obtained authority over the savages that surrounded him, enforced obedience to his own rude ideas of justice. It was natural that he, and those who succeeded him, should aim at uniformity. Some kind of general system was formed by a regard to precedent; and this state of things, in which the judge ascertains, or conjectures, how his predecessor would have decided, forms the simplest state of the unwritten law.

As decisions multiplied, certain general principles were so well established, that it was no longer necessary to cite a precedent in support of them; certain maxims, or wise sayings, were considered as of great authority; it became extremely difficult to decide any question, otherwise than the same point had been decided, in a cause precisely similar; and the reason, justice, and convenience of each particular case, furnished arguments, which weighed more or less in the mind of the judge.

Unfortunately, these different forces often act in different directions, and contend for mastery. The judge finds that

much may be said on both sides, balances, in the best way he can, the weight of the opposing principles, and every decision is another ingredient in the caldron.

This confusion is by no means peculiar to the common law. The operation of *Acts of Parliament* varies with the law upon which they operate. An act of parliament is only a principle of law. Every principle of law is liable to yield, when more and stronger principles can be set in opposition to it; and numerous cases, in which acts of parliament have been indirectly, or even directly, over-ruled in our courts, must be familiar to the English lawyer.

If such inconveniences were most felt in the *païs coutumier,* they extended, in some degree, to those parts of France where the Roman law was acknowledged, as the basis of their jurisprudence. The Roman law was, for ages, an unwritten law; the object of Justinian, and of those who preceded him, was rather to compile, than to create, a code; and, notwithstanding the wisdom displayed in the civil law, it has never been found convenient in practice.

The French revolution afforded the opportunity for a complete change. It required the energy of a free nation to undertake the task of preparing a code, which, emanating from the representatives of the people, should bind the people by its own authority, supersede a jurisprudence resting only upon custom, or adopted from foreign nations, and contain in itself the governing rules of civil society. The work, once begun, was completed, under the despotism that followed, with more of order and uniformity than can well be expected in a time of liberty.

The codes of the French empire are five in number.

1st. The Civil Code, decreed at several successive times in the years 1803 and 1804. These enactments were, in the year 1804, united by law into one volume, under

the title of "The Civil Code of the French;" since that time usually called the CODE NAPOLEON.

2nd. The CODE OF CIVIL PROCEDURE, decreed in 1806.

3rd. The CODE OF COMMERCE, decreed in 1807.

4th. The CODE OF CRIMINAL INSTRUCTION, decreed in 1808.

5th. The PENAL CODE, decreed in 1810.

The study of these codes will be much facilitated by a perusal of the "*Motifs et Rapports*," the motives or reasons by which their several parts were successively recommended, by order of the government, to the French legislature; and the reports made thereon by the committees. We must not, indeed, expect to find in them a free discussion; the legislatures of the empire were not required to deliberate: but they are the work of able men; and their arguments, if not impartial, are still instructive.

The readers of the *Edinburgh Review* will remember several excellent articles upon this subject; but the celebrity of that journal makes it unnecessary to refer to them at length.

The equity of the French codes, as between individuals, is little disputed; their luminous and philosophical arrangement, clearness, certainty, and brevity, are without parallel in the existing laws of any other country. Still, perfect precision is not yet attained; the French lawyer still draws many of his arguments from decisions of the tribunals, and rules of the civil law; and we can only say, with truth, that he appears to argue more in proportion from the text of the law, than the English lawyer does from strict legal principles; and less from other authorities.

The Code Napoleon, of which an English translation has been published by Mr. Barrett, defines the rights of persons, and of things. Its leading principles are those of the civil law—indeed of natural justice; and the general excellence of its provisions is such, that it has survived the power of the person from whom it was named, and is now in force, with an exception too honourable to the present King, not to be mentioned. The pernicious facility of divorce, established in the earlier part of the revolution, is somewhat restrained by the Code; but it was reserved for the reign of a religious Prince, entirely to abolish a practice, which, in whatever degree, and on whatever pretence, it is tolerated, must be considered as a triumph of human passions and motives over the commands of the Holy Scriptures, the authority of the Church, and the most important interests of morality and virtue.

As the Penal Code is now submitted to the English reader, it seems unnecessary to enter into any discussion of its general merits.

It will be observed, that the punishment of *branding* is frequently used in France. With us it is inflicted in a different manner, and has been very sparingly resorted to in modern times; except in bad cases of manslaughter, where it has certainly produced a good effect in checking the brutal practice of *kicking*, which formerly prevailed, and is not yet completely abandoned, in certain districts. *Whipping* is entirely unknown in France. A certain Act of Parliament has exempted females from this degrading punishment, and it is very seldom ordered by the judges on their circuits. It was, however, actually inflicted, publicly and privately, about 150 times, in one county, during the year 1818!

Of the codes of civil and criminal procedure, the feature most interesting to an Englishman is, that they establish the right of the subject to an open trial by jury, in

most criminal cases of importance; but not in trials for smaller offences. Unanimity is not required from the jury; they decide by a mere majority; and, if the voices are equal, the prisoner is acquitted. If the verdict is unfavourable to him, the judges have power, under certain restrictions, to reverse it, or grant a new trial: but the regulations, for this purpose, are somewhat complicated, and are now under revision. The prisoner is allowed a seat during his trial; and, in this respect, we may learn humanity from our neighbours, both in France and in Scotland. In civil cases, trial by jury is altogether excluded; nor are the witnesses examined publicly, as in our courts of common law. These Codes, and the Commercial one, have not yet been translated; but, if other occupations permit, and the public seems to desire it, they may perhaps appear in the English language.

These Codes have, all of them, been established as law in the full extent of the French empire, and still continue in force, not only in France, properly so called, but, with few exceptions, in the provinces incorporated with the empire, but now restored to their ancient sovereigns. It is reported that the king of Sicily has lately determined to organize tribunals all over his territory, insular as well as continental, after the model of those established in France; and from the actual state of jurisprudence, in several other nations, the still further extension of the French system is by no means improbable.

If the institutions, by which so many millions of our neighbours are governed, have not yet become so well known in England as one might have expected, this must be attributed, in a great degree, to the state of war which has existed between the two nations, and which has made many amongst us unwilling to derive instruction from so bitter an enemy. To no other cause than to a want of acquaintance with the subject can we ascribe the very strong prejudices, which we frequently see to prevail, and which

perhaps, are no where more strongly expressed than in a late number of the British Review; where, amongst other remarks upon the trials for the assassination of M. Fualdès the reviewers go the length of declaring it "manifest that "the observances which common sense, prudence, humanity "and justice impose, to guide and define the course of a trial "for life or death, do not exist for a prisoner in France;" "that the proceedings include almost every possible variety "of absurdity and unfairness;" and, finally, "that they (the "reviewers), have placed beyond doubt, their assertion, "that a fair trial is not to be had in France, under its pre-"sent system of judicial proceedings,"—*British Review*, *No.* 22, *pp.* 522—539.

As the publication, above quoted, is, in general, highly respectable; and its opinions and sentiments, on some important subjects, are those of a large part of the community, its occasional errors in reasoning and fact are the more unfortunate. Let us examine upon what grounds the above conclusions are built.

The trials in question, offered extreme difficulties to the magistrates engaged in them. Several persons, of a superior situation in life, were to be tried capitally; and the principal witness was a female, who alone could give the information required for the purposes of justice, but whose evidence, if she *spoke out*, must necessarily state a fact destructive of her own character, and must also send to the scaffold, along with the other prisoners, one who had rescued her from the hands of his companions, who intended to sacrifice her life to their own safety.

Besides the atrocity of the case, there was another powerful reason for not allowing the accused, if really guilty, to escape. It was necessary to satisfy the public mind, that full justice was done; for some reports had got abroad that the murder was owing to political causes, and was attributable to the government; and these reports, however absurd, had obtained some credit.

Is it then a matter of surprise, that the greatest pains should be taken to extract the truth from this reluctant witness, that threats and persuasion should be used for this purpose, with all the ingenuity that the parties concerned possessed; that, if a certain quantity of flattery was thought likely to produce an effect, this expedient should not be omitted; and that the judge should not allow his patience to be exhausted by the capricious behaviour to be expected from such a character?

Much of what is reported, as having taken place in the courts at Rodes and Albi, must have happened equally at the Old Bailey, upon a trial before the English judges, with whom the French president is, by the reviewers, perpetually compared—rather unfairly indeed; for though a member of a *cour royale*, presiding at the *cour d'assises*, has to perform similar functions, his rank and pay bear no proportion to those enjoyed by their lordships upon the English bench; and, in fact, are understood to resemble pretty nearly those of a captain in our army. And when a reasonable allowance is made for the *flowery* style, and, apparently, impassioned manner, in which the French are more accustomed than the English to express themselves, the difference between the course of proceeding in the two countries, will appear much less than it does at first sight.

The points most essentially different, and upon which the charges of the reviewers come in a more tangible shape, are principally these:

First, it is charged as a fault in the president that he allowed the witnesses to state things of no importance, such as hear-say evidence, and their own opinions and suspicions. When one of these persons gave a long account, which, in truth, was nothing at all to the purpose, the president is accused of *having had the patience to hear him out*, and then of having asked the prisoner Bastide what he had to say to *this testimony!* And, when the prisoner's counsel at-

tempted to interrupt another of these impertinent witnesses, the court stopped the advocate in the *proper discharge of his duty.*

Now, when the law expressly commands that "the witness must not be interrupted," and that "after every deposition the president shall ask the accused whether he will answer to what has just been said against him,"—(Code d'Instruction Criminelle, article 319);—it is not necessary to add much, in order to shew that, upon the above charge, the judge, at least, must be acquitted of having done more than his duty. The practice of hearing every witness tell his story in his own way, without interruption, and then examining him to further particulars, is not in itself absurd, particularly with regard to French witnesses, though the English law is certainly otherwise.

If it be asked why witnesses were called, of whose whole evidence no part could affect the verdict, it may be answered, that it is frequently necessary to do so in criminal cases; and a reason has been above given why the public prosecutor should not keep back any person who tendered his evidence, and of whom the public might suspect that he was not brought into court because he would have disclosed facts implicating government.

Within these few days, the Advocate-General brought to trial for their lives, at the London Admiralty Sessions, several persons whom he must have *known* to be innocent; and many witnesses were examined on that occasion, of whom the public prosecutor must have *known* that they came to give false evidence; but then the prisoners were the master and soldiers on board a transport ship, who had fired upon the convicts;—the fact of homicide was notorious; that it was done in self-defence could be known only to those who had examined the witnesses; and a prosecution was considered necessary, for the purpose, not of obtaining conviction, but of satisfying the public that the prisoners

were justified in what they had done; and that, if they were not justified, government would not protect them.

To this it may be added, that all rules declaring evidence inadmissible are, theoretically at least, liable to much objection. It is absurd to control, by arbitrary rules, the process by which the mind may arrive at certainty upon a question of fact.* Who would now think of reading

* The Code d'Instruction Criminelle gives the following admonition to juries:—

"The law requires no account from jurymen of the reasons by which "they have convinced themselves: it prescribes to them no rules upon which "they are to make the fulness and sufficiency of a proof depend: it requires "them to ask themselves, in silence and reflection, and to enquire in the sin- "cerity of their own conscience, what impression the proofs brought against "the accused, and his defence, have made upon their minds. The law "does not say to them, *You shall receive as true every fact attested by such* "*or such a number of witnesses;* no more does it say to them, *You shall not* "*consider as sufficiently made out, every proof which may not be formed of* "*such a record, of such documents, of so many witnesses, or of such a quan-* "*tity of evidence;* it asks them this single question, which comprises the "whole measure of their duty, *Are you inwardly convinced?*

"What is most essential not to lose sight of, is this; that all the deli- "beration of the jury must bear upon the indictment; it is to the facts con- "tained in or depending upon it, that they ought exclusively to apply them- "selves; and they fail in their first duty, when, taking into consideration "the dispositions of the penal laws, they think about the consequences "which the verdict they are to pronounce may have, in reference to the "accused. Their function has not for its object the prosecution or the "punishment of offences; they are only called upon to decide whether the "accused is or is not guilty of the crime imputed to him." Art. 342.

This charge is fixed up in the jury's retiring room, and the foreman must read it over to his fellows before they begin their deliberation. Such a precaution was not useless in a country where men had been accustomed to see the fate of prisoners depend upon a system of presumptions, commencements of proof, half proofs, full proofs, and adminicular proofs. Some of the French lawyers greatly lament the change. They consider "*l'intime conviction,*" and the neglect of ancient rules, to have been the death of Lebrun, Calas, &c. The judge who attended to rules could calculate the guilt or innocence of a prisoner with as much ease and certainty as a sum in arithmetic; and, if he now and then hanged a person unjustly, the public had at least the satisfaction of knowing that every thing had been done strictly according to art.

books written by Aristotle, to teach men how to syllogize? Such rules are discarded from the affairs of common life, in which a sense of men's own interest will always induce them to reason as well as they can. In trials, these rules are a manifest encroachment upon the province of the jury, whom they presume incompetent to their duty, and govern under pretence of assisting them. Nor can they possibly be carried into complete effect. The judge who excludes what is not evidence, should, to be consistent, compel the jury to estimate at its due value that which he admits, and to reject from their consideration every thing that he would not have permitted them to hear, if it had not been mixed up with something that he could not refuse to hear. But this is impossible; and therefore the jury, who are assisted in the easier task, are left to perform the more difficult one for themselves.

The case of James Ashcroft and others, tried at Lancaster, August assizes, 1817, furnishes an example of men convicted and executed, upon evidence which had no *legal* application to their case.* Let any one read over a report of their trial, and say whether all or any of those men could have been convicted unless the elder Ashcroft had made a confes-

* As a reference is here made to a case which excited much attention, it is proper to state most distinctly, that it is done without the slightest intention to impeach the *justice* of those men's punishment. That they were guilty of the murder for which they suffered, was, whether legally or not, most satisfactorily proved at the trial, and it is understood that additional circumstances have since transpired, which strongly confirm the belief of their guilt. Their own protestations of innocence, vehemently made and persisted in to the last, created at the time a considerable sensation; but will have little weight with any one who reflects that those protestations afforded the prisoners their only chance of acquittal or reprieve. It is not very surprising that men, whose conduct had been for many years a continued course of profligacy, should, to save their own lives, attempt to speak the language of innocence. It is more surprising that any one should argue from the dying speeches of such abandoned persons, as certainly containing a true statement of the facts they assert, the opinions they hold, or the hopes they entertain.

sion. That confession was evidence against him alone; and, if the prisoners had been tried separately, and by distinct juries, could not have been repeated except upon *his* trial. Could it be expected that the jury should separate the prisoners' cases, in obedience to a rule of law, which is not a rule of common sense? They reasoned, as all men who have the free use of their faculties must reason, that the confession, if well proved, was conclusive against him, Ashcroft, and that it was impossible to believe him guilty and the others innocent. Yet where is the difference, in principle, between convicting men without any légal evidence at all, and convicting them in a case where there does indeed exist a certain quantum of legal evidence, but not enough to prove them guilty.

The other charge relates to the judge's conduct towards the prisoners. To Bastide and Jaussion he said, "You certainly were in the house of Bancal; tell us which of you "saved a woman's life." He told the woman Bancal that she knew herself to be guilty, and, pointing to a crucifix, conjured her to give glory to God, and no longer conceal the truth.

The law is by no means ambiguous, "The president may "ask from the witness, *and the accused, equally*, all the information which he shall think necessary for the manifestation of the truth." Code d'Instruction Criminelle, art. 319. This article will certainly confirm the reviewers in their opinion, that the just and humane rule of our law, that no prisoner can be called upon to criminate himself, (this *just and humane* rule takes for granted that the prisoner is really criminal) has no place in French theory or practice. It appeared to the legislators of that country that the prisoner was at least as likely as any of the witnesses to know his own guilt or innocence; and, if really innocent, had the most interest in giving all the information in his power. Upon this principle the courts must act; and, in the questions above stated, it is not easy to see any thing unbecoming an upright judge or a good man. Is it not the duty of every

man to speak the truth when lawfully required? Degraded as a prisoner may be by his crimes, is he not still a man and a brother? Has he not still a moral sense, a conscience, and a soul? And is not that an undue tenderness to his temporal interests, which, by shielding him from all interrogation, does, in fact, encourage him to hope that he may escape a just punishment by deceiving his judges. We are accustomed to hear of the *justice and humanity* of this rule till we really believe in it, and are astonished when any man has the boldness to call it "a rule invented by the guilty "for the benefit of the guilty, and from which none but "the guilty can possibly derive any benefit."

To this defence of the French trials, the English reader must give such weight as he thinks due to it; but if he be still of opinion that the superior excellence of the English law; the equity of its principles and the correctness of their application; its mild spirit; its adaptation to the present state of society; and the expedition, convenience, and dignity of our legal procedure, entitle us to look down upon our less enlightened neighbours with contempt,—let him reflect upon the case of Ashford *v.* Thornton, (reported 1 Barnewall and Alderson, 461) a case depending for several months, argued by learned counsel, fully considered, and finally decided, not even one judge dissenting, a few days only before the publication of that review in which the French magistrates are so severely censured for their unjust and senseless behaviour.*

* While this translation is in the press, notice has been given of a motion in the House of Commons for a bill to abolish Wager of Battel. As this mode of trial is supposed to be the present law of England, not only in appeals, but in real actions, which are now become not unfrequent, it is to be hoped that the repeal will extend to these last cases; and if essoigns, imparlances, writs of view, demurrers of the parol, and the election of recognitors to serve on the grand assize, should be repealed also, the law would not suffer much, either in substantial justice or in public opinion.

A real grievance, and a more serious one than those noticed by the British Reviewers, is the long interval which elapses between arrest and trial. It is true, that neither in France nor England is a prisoner committed without some reason to believe that he is guilty; and, in France, a very minute enquiry takes place immediately after the arrest, in order to ascertain whether there are sufficient grounds to put him in accusation; but every prisoner has a right to expect that the suspicions which may exist against him, should be, as soon as possible, removed or confirmed by a definitive trial.

From an examination of the Recueil des Causes Célèbres, edited by M. Méjan, in 12 volumes, Paris, 1811, it appears that the persons, whose cases are there reported, were confined, before trial, for a period of generally five or six months, and sometimes even more. This is far too long for any man to remain in prison uncondemned; but, if we compare it with our own proceedings, we shall not find much reason to congratulate ourselves. In the northern counties, every assize prisoner must lie in jail till the judges come to try him, which they do *once a-year*. This was perhaps unavoidable before the invention of post-chaises, mail coaches and turnpike-roads and whilst the northern borders were subject to hostile incursions; but we are advancing in the 19th century, and even now a reformation is only agitated, and is discountenanced by many of the lawyers. Surely, if these counties were placed upon an equality with the rest of the kingdom, we should still be far from what the necessity of the case requires. Every three months at least, as in France, should the jails be delivered of every prisoner whose case is ready for trial; and, if this cannot be done with the present judges, an additional number should be appointed.

The attention of parliament is now strongly called to a revision of the Criminal Code, and, upon one part only of that subject, shall any further observation be here offered.

When men receive sentence of death by fifty at a time, some reform is imperiously required; and it ought to be such as will greatly diminish the number of capital convictions, and then leave the law nearly certain in its operation.

The idea of entirely abolishing capital penalties, which was entertained in the earlier part of the French revolution, has, in that country, given way to wiser dispositions; and it seems a duty to protest, both against that blind clemency which would deprive the law of its most effectual sanction, and against those doubts of the lawfulness of capital punishment, which seldom originate from any other cause, than a reluctance in the human mind to acknowledge the unpleasing doctrine, that the wages of sin is death. The magistrate who would enforce this truth as he ought, must not always bear the sword in vain.

Another observation shall be added, and also from a sense of duty, as applicable to the whole subject. Important as legislation is, it is not in legislation only that we must seek the causes of a nation's prosperity. Political institutions are only the *form*, the hearts and dispositions of men are the *substance* of society; while *these* are unreformed, the statesman may erect a specious edifice, faultless in shape and proportions, but crumbling to ruin from the unsoundness of its materials. Reform *here* is most desirable; it will produce good laws, or make bad ones tolerable; and these reflections shall now conclude, with the prayer, that we may obtain, through Divine aid, that moral improvement, which alone can place upon sure foundations the peace and happiness of man.

February 12, 1819.

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The reader will observe, that the technical expressions of the Code are frequently preserved in the following translation. An instance occurs in the first article, where offences are divided into *crimes*, *delicts*, and *contraventions*. This division is of importance, as it affects not only the degree of punishment, but the mode of trial. The English terms of *felony*, *misdemeanors*, and *offences* cognizable in a summary way by justices, would answer pretty nearly to the distinctions of the French law, but not with sufficient exactness to avoid the hazard of misleading the reader. The original French words are always inserted, where they were thought likely to afford assistance.

ERRATA.

Page 55, line 26, *for* §. II. *read* §. I.
—— 76, line 7. *for* Section II, *read* Section I
—— 75, line 9, *read*, not less than five years nor more than ten years, reckoning from the day.
—— 77, line 11, *for* extend *read* exterior.
—— 84, Note. Begin the parenthesis after the word *gain*.

PENAL CODE.

OFFENCES and PENALTIES.

[Law decreed February 12th, promulgated February 22d, 1810.]

PRELIMINARY DISPOSITIONS.

ARTICLE 1. THE offence which the laws punish with penalties of *police* is called a CONTRAVENTION (*contravention.*)

The offence which the laws punish with *correctional* penalties is called a DELICT (*délit.*)

The offence which the laws punish with an *afflictive* or *infamous* penalty is called a CRIME (*crime.*)

2. Every attempt to commit a crime, which shall have been manifested by open acts and followed by a commencement of execution, if it hath been suspended or hath failed to take effect only by reason of fortuitous circumstances or such as are independent of the will of the actor, is considered the same as the crime itself.

3. Attempts to commit delicts are only considered as delicts in the cases determined by a special disposition of the law.*

4. No contravention, delict, or crime can be punished with any penalty not pronounced by the law before the commission thereof.

5. The dispositions of the present code do not apply to military contraventions, delicts, or crimes.

* Such special dispositions are to be found only in articles 179, 401, 405, 414 and 415.

BOOK THE FIRST.

Of Penalties in criminal and correctional Matters, and of their Effects.

6. THE penalties in criminal matters are either afflictive and infamous, or merely infamous.

7. Afflictive and infamous penalties are:

1st. Death.

2d. Hard labour *(travaux forcés)* in perpetuity.

3d. Transportation *(deportation.)*

4th. Hard labour for time.

5th. Solitary imprisonment *(réclusion.)*

Branding and general confiscation* may be pronounced concurrently with an afflictive penalty, in the cases determined by the law.

8. Infamous penalties are:

1st. The Pillory *(carcan.)*

2d. Banishment *(bannissement.)*

3d. Civic degradation.

9. The penalties in correctional matters are:

1st. Imprisonment for time in a house of correction (*Maison de force.*)

2d. Interdiction, for time, from certain civil or family rights.

3d. Fine (*l'amende.*)

10. Condemnation to the penalties established by the law, is always pronounced without prejudice to the claims of the injured parties, to the restitutions, damages and costs, (*restitutions et dommages intérêts*) which may be due to them.

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* Since the accession of Louis XVIII. confiscation is entirely abolished.

11. The placing (*le renvoi*) under the special superintendence of the high Police; fine and special confiscation, either of the subject of the delict, (*corps du délit*) when the property of it belongs to the condemned person; or of the things produced by the delict, or of those which have been employed, or were intended to be employed, to commit the delict; are penalties common to criminal and correctional matters.

CHAPTER I.

Of Penalties in criminal Matters.

12. Every person condemned to death shall be beheaded.

13. The person condemned to death for parricide, shall be conducted to the place of execution in a shirt, barefooted, and with his head covered by a black veil.

He shall be exposed upon the scaffold, whilst a serjeant (*huissier*) shall read to the people the sentence of condemnation; he shall then have his right hand cut off, and immediately be put to death.*

14. The bodies of those who are executed shall be delivered to their families, if their families require them, upon condition of having them interred without any public ceremony.

15. Male persons condemned to hard labour shall be employed in the most severe works; a cannon ball shall be chained to the feet of each such person; or the convicts shall be chained together two and two, whenever the kind of work in which they are employed will permit.

16. The females condemned to hard labour shall not be set to work, except in a House of Correction.

17. The penalty of transportation shall consist in be-

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* For exceptions, and causes (*moyens*) of extenuation, see articles 64, 66, 68 and 319.

ing removed to, and in remaining for life at, a place fixed upon by the government out of the continental territory of the empire.

If the transported person be found within the territory of the empire, he shall be condemned, on the mere proof of his identity, to perpetual hard labour.

The transported person who shall be taken in any country occupied by the French armies, not within the territory of the empire, shall be sent back to the place of his transportation.

18. Condemnation to perpetual hard labour, and transportation shall carry with it the civil death of the person condemned.

Nevertheless, the government shall have power to allow to the transported person, in the place of his transportation, the exercise of civil rights, or of some of them.

19. Condemnation to the penalty of hard labour for time, shall be pronounced for not less than five years, nor more than twenty years.

20. Whoever shall have been condemned to the penalty of perpetual hard labour, shall be branded in the market-place (*la place publique*) with a stamp of hot iron on the right shoulder.

Persons condemned to other penalties, shall undergo the branding only in those cases where it shall be added by the law to the other penalties inflicted upon them.

The stamp shall consist of the letters T. P. for persons condemned to perpetual hard labour (*travaux forcés à perpétuité*); and of the letter T. for persons condemned to hard labour for time, in cases where such persons are also sentenced to be branded.

The letter F. shall be added to the stamp, if the condemned has been guilty of forgery (*est un faussaire.*)

21. Every individual of either sex, condemned to the penalty of solitary imprisonment, shall be confined in a House of Correction, and shall be employed in some work, the produce of which may be applied in part for the prisoner's benefit, according to the discretion of the government.

The duration of this punishment shall be not less than five years, nor more than ten years.

22. Whoever shall have been condemned to perpetual hard labour; to hard labour for time; or to solitary imprisonment; shall, before he undergo his punishment, be set in the pillory in the market-place, and shall remain there exposed to the view of the people for one hour; above his head shall be placed a label, containing, in large and legible characters, his names, profession, dwelling-place (*domicile*), his punishment, and the cause of his condemnation.

23. The duration of hard labour for time, and of solitary imprisonment, shall be reckoned from the day of the exposure.

24. Condemnation to the penalty of the pillory shall be carried into effect after the manner prescribed by article 22.

25. No condemnation can be executed on any of the days of national or religious feasts, nor on a Sunday.

26. Every execution shall be performed in one of the public places of the town which shall be indicated by the sentence of condemnation.

27. If a woman, condemned to death, declare herself, and be proved to be, with child, she shall not undergo the penalty until after her delivery.

28. Whoever shall have been condemned to the penalty of hard labour for time, banishment, solitary imprisonment, or the pillory, cannot afterwards be a juryman (*juré*), or a viewer (*expert*), an attesting witness (*témoin dans les actes*), or an evidence in a court of justice, except only to give information (*pour y donner de simples renseignements.*)

He shall be incompetent to act as a guardian (*incapable de tutelle*), or committee (*de curatelle*), except of his own children, and then only with the consent of his family.

He shall be deprived of the right of bearing arms, and of the right of serving in the armies of the empire.

29. Whoever shall have been condemned to the penalty of hard labour for time, or solitary imprisonment, shall be also, during the term of his punishment, in a state of legal interdiction;* a committee (*curateur*), shall be appointed

* *i. e.* Not allowed to manage his own affairs; as in cases of lunacy.

to manage and administer his property, in the same form as is prescribed for the appointment of committees of lunatics (*interdicts.*)

30. The property of the condemned shall be restored to him when he has undergone his punishment, and the committee shall render him an account of his administration thereof.

31. During the term of the punishment, no money, no provision, no portion of his own income shall be given to him.

32. Whoever shall have been condemned to banishment shall be removed by order of the government out of the territory of the empire.

The duration of the banishment shall be not less than five years, nor more than ten years.

33. If the banished person, during the time of his banishment, be found within the territory of the empire, he shall be condemned, on the mere proof of his identity, to transportation for life.

34. Civic degradation consists in the deprivation of, and exclusion from, all public offices or employments; and in the deprivation of all the rights expressed in article 28.

35. The duration of the banishment is reckoned from the day on which the sentence becomes irrevocable.

36. An extract shall be printed of every sentence of death; of perpetual hard labour; of hard labour for time; of transportation; of solitary imprisonment; of the pillory; of banishment; or of civic degradation.

Such extract shall be posted up in the central town of the department; in that where the sentence shall have been pronounced; in the township (*commune*) where the delict has been committed; in that where the sentence shall be executed; and in that where the condemned person shall have his residence (*domicile.*)

37. General confiscation is the adjudication of the property of the condemned to the revenues of the state.

It shall not be the necessary consequence of any condemnation, but shall take place only in the cases in which the law pronounces it expressly.

38. Property which has become the subject of general confiscation remains charged with all lawful debts, so far

as it will extend; and, also, with the obligation of furnishing to the children, or other issue, the half of the fortune of which the father had not the power of depriving them.*

It is also charged with aliment where due of common right.

39. The emperor may dispose of the confiscated property in favour either of the father, mother or other ascendants, or of the widow, children or other descendants, either legitimate, natural, or adopted; or of any other relations of the condemned.

CHAPTER II.

Of Penalties in correctional Matters.

40. Whoever shall have been condemned to the penalty of imprisonment, shall be confined in a House of Correction: he shall be there employed in one of the works established in such house, according to his own choice.

The duration of this penalty shall be not less than six days, and not more than five years; except in cases of relapse (*recidive*), or others in which the law has fixed different periods.

Twenty-four hours are reckoned one day of imprisonment, and thirty days one month.

41. The produce of the labour of each person, imprisoned for a correctional delict, shall be applied, in part, towards the ordinary expenses of the house; in part, to afford to the imprisoned person some comforts, if he deserve them; in part, to make to him, when he leaves the house, a fund of resource: the regulation of all which matters shall be prescribed by the public administration.

42. The tribunal judging in correctional matters shall

* By the French law, a father has not the power of entirely disinheriting his children.

have power, in certain cases, to interdict, in whole or in part, the exercise of the civic, civil, and family rights following:

1st. Of voting (*vote*) and election.

2d. Of eligibility.

3d. Of being called to, or nominated for, the function of juryman, or other public functions, or the offices of administration, or of exercising these functions, or employments.

4th. Of bearing arms.

5th. Of voting and suffrage in the family council (*délibérations de famille.*)

6th. Of being guardian (*tuteur*) and committee (*curateur*) except of his own children, and then only with the consent of the family.

7th. Of being a viewer, or an attesting witness.

8th. Of giving testimony in a court of justice, except only to give information (*faire de simples déclarations.*)

43. The tribunals shall pronounce the interdiction mentioned in the preceding article, only when it has been authorized or prescribed by a particular disposition of the law.

CHAPTER III.

Of Penalties, and other Condemnations, which may be pronounced for Crimes or Delicts.

44. The effect of the placing under the superintendence (*inspection*) of the high police of the state, shall consist, in giving to the government, as well as to the injured party, the right of requiring, either from the individual placed in this state, when he has undergone his punishment, or from his father and mother, guardian, or trustee, if he be a minor, sufficient bail or security (*caution*) for his good behaviour, to the amount of the sum fixed by the sentence or judgment; any person may be admitted to furnish such security.

For want of such bail and security, the condemned remains

at the disposal of the government, which has the right of ordering, either the removal of the individual from a certain place, or his continual residence in a fixed place, in one of the departments of the empire.

45. In case of disobedience of this order, the government shall have the power of causing the condemned person to be arrested, and detained during a space of time, not exceeding the period for which he was placed under the superintendence of the high police.

46. When the person placed under the special superintendence of the government, being let out on bail, shall have been condemned by a sentence or judgment, become irrevocable, for one or more crimes, or for one or more delicts, committed in the interval for which such bail shall have been given, the bail shall be responsible, even corporally (*par corps*) for the payment of the sums expressed in their bond.

The sums recovered shall be applied, in the first place, to the restitutions, damages, and costs, adjudged to the injured parties.

47. Persons condemned to hard labour for time, and to solitary imprisonment, shall, by necessary consequence, after they have undergone their punishments, and during the remainder of their lives, be under the superintendence of the high police of the state.

48. Persons condemned to banishment shall, by necessary consequence, be under the same superintendence, during a period of time equal to the duration of the penalty which they have undergone, commencing from and after the determination of such penalty.

49. Those persons shall be placed under the same superintendence, who have been condemned for crimes or delicts which concern the exterior or interior safety of the state.

50. Except in the cases determined by the preceding articles, the guilty persons shall be placed under superintendence in those cases only in which a particular disposition of the law has permitted it.

51. In those cases in which restitution is ordered, the convict shall be condemned besides, and for the benefit of the injured party, to such further indemnifications as shall be determined by the court or tribunal, when the law has not fixed it; but so that the same indemnifications do not exceed

the fourth-part of the restitution, and that the court or tribunal shall not, even with the consent of the party, direct the application thereof to any public work.

52. The execution of the sentence of fine, of restitution, damages, and costs, may be carried into effect by arresting the body of the condemned person, in default of payment (*pourra etre poursuivie par la voie de la contrainte par corps*).

53. When fines and costs are awarded for the benefit of the state, if after the expiration of an afflictive and infamous punishment, the imprisonment of the convict for the acquittance of these pecuniary condemnations, has lasted a complete year, he may, upon legal proof of his absolute insolvency, obtain his liberty.

The duration of such imprisonment shall be reduced to six months, in cases of delicts; but, in all cases, the right to imprison the convict, in default of payment, shall revive, if he afterwards become possessed of the means of payment.

54. If fine or confiscation be awarded, concurrently with restitutions and damages, and the property of the convicted be insufficient, the restitutions and damages shall have precedence in payment before the fine.

55. All the individuals condemned for the same crime, or the same delict, shall be jointly and severally bound with each other for the payment of the fines, restitutions, damages and costs.

CHAPTER IV.

Of the Penalties for the REPETITION *of Crimes and Delicts.*

56. Whoever, having been condemned for a crime, has committed a second crime, punishable with civic degradation, shall be condemned to the pillory.

If the second crime be punishable by the pillory or banishment, the criminal shall be condemned to solitary imprisonment.

If the second crime be punishable by solitary imprisonment, he shall be condemned to hard labour for time, and to branding.

If the second crime be punishable by hard labour for time, or transportation, he shall be condemned to perpetual hard labour.

If the second crime be punishable by perpetual hard labour, he shall be condemned to the penalty of death.

57. Whoever, having been condemned for a crime, has committed a delict punishable with a correctional penalty, shall be sentenced to the *maximum* of the punishment directed by the law; and this penalty may be increased, so as not to be more than double such *maximum*.

58. Persons condemned, in correctional matters, to an imprisonment of more than one year, shall also, in case of a fresh delict, be condemned to the *maximum* of punishment allowed by the law; and this penalty may be increased so as not to be more than double such *maximum*. They shall be also placed under *surveillance*, for not less than five years, nor more than ten years.

BOOK THE SECOND.

Of the PERSONS punishable, excusable or responsible for CRIMES or for DELICTS.

[Law decreed February 13th, 1810, promulgated February 23d, 1810.]

CHAPTER I.

59. THE accomplices of a crime or of a delict shall be punished with the same penalty as the principals in the commission of such crime or delict, except where the law may otherwise direct.

60. Those shall be punished as accomplices of a crime or delict, who, by gifts, promises, threats, abuse of authority, or of power, machinations, or culpable artifices, have abetted the offence, or given instructions for the commission of it.

Those also who have knowingly furnished arms, instruments, or any other means, for the commission of the offence.

Those also who have knowingly aided or assisted the principal or principals in the offence, in the acts done for the preparation, facilitation, or consummation of it; and this without prejudice to the penalties which shall be specially pronounced by the present code, against the authors of plots or provocations attempted against the exterior or interior safety of the state; even where the crime which was the object of the conspirators, or of the abettors, shall not have been committed.

61. Those who, knowing the criminal conduct of persons committing robberies or outrages against the safety of the state, the public peace, or against persons or property, shall habitually provide for them a place of retreat or meeting, shall be punished as accomplices.

62. Those who knowingly have received, in whole or in part, any things stolen, taken, or obtained by the means of a crime or delict, shall also be punished as accomplices in such crime or delict.

63. Nevertheless, in regard to the receivers of stolen goods,* designated in the preceding article, the penalty of death, of perpetual hard labour, or of transportation, as the case may be, shall be applied to them only where they are convicted of having had, at the time of the concealment, a knowledge of the circumstances to which the law applies the above penalties; otherwise they shall undergo only the penalty of hard labour for time.

64. There can be no crime, or delict, where the accused was in a state of madness, at the time of the action; or when he has been constrained by a force which he had not the power to resist.

65. No crime or delict can be excused, nor the penalty of it mitigated, except in the cases or circumstances in which the law declares the fact excusable, or permits the application of a less severe penalty.

66. When the accused is less than sixteen years old, if it be decided that he has acted without a competent knowledge

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* In Mr. Evans's Collection of the English Statutes, he gives the following note on the "Offences relating to Stolen Goods," which form a distinct Article, occupying 19 Pages, and extracted from 13 different Acts of Parliament—

"It is observed in Rede's Essay towards a free examination of the Laws of England, Vol. II. p. 75. (apparently with much justice) that 'Receiving Stolen Goods is perhaps the most prominent evil in the whole Penal Code; and that instead of the piece-meal System, which has been from time to time adopted, on suggestions only applicable to particular cases, one general Law should embrace every object, and remedy every defect in the existing Statutes. When (it is added) the Receiver is in reality the greatest Offender, and even the source from whence most Burglaries and Robberies have their origin, the receipt of Stolen Goods should be made an original Offence.'"

Mr. Evans adds,

"Certainly a Law which provided in three lines—That receiving Stolen Goods, Money, Bills, &c., knowing them to be stolen, and whether the value did or did not amount to more than 1*s.* should be Felony; and that the offenders should be liable to be transported for any term not exceeding 14 years; or to be punished by Whipping, Fine and Imprisonment, or any one or more of such punishments, would seem to be much preferable to the present complicated system."

See Evans's Statutes, Vol. 6, p. 515.

of right and wrong, in the commmission of the action (*sans discernement*), he shall be acquitted; but he shall, according to the circumstances, be either sent back to his relations, or placed in a House of Correction, to be there brought up and detained during such a number of years as the sentence shall determine; but which shall not extend beyond his attainment to the age of twenty years.

67. If it be decided that he has acted with full knowledge (*avec discernement*), the penalties shall be pronounced as follows:

If he have incurred the penalty of death, perpetual hard labour, or transportation, he shall be condemned to the penalty of from ten to twenty years' imprisonment in a House of Correction.

If he have incurred the penalty of hard labour for time, or of solitary imprisonment, he shall be condemned to be confined in a House of Correction, for not less than one-third, nor more than one-half, of the time for which he might have been condemned to one of those penalties.

In all these cases he may be placed by the sentence or judgment, under the superintendence of the high police, for not less than five years, nor more than ten years.

If he have incurred the penalty of the pillory, or of banishment, he shall be condemned to be confined for not less than one year, nor more than five years, in a House of Correction.

68. In none of the cases provided for by the preceding article, shall the condemned undergo public exposure.

69. If the convict have only incurred a correctional penalty, he may be condemned to such a correctional penalty as shall be thought fit; provided that it be less than half of that which he should have undergone, if he had been sixteen years old.

70. The penalties of perpetual hard labour, of transportation, and of hard labour for time, shall not be pronounced against any person of the age of seventy years complete, at the time of the judgment.

71. These penalties shall be commuted, in favour of such persons, for solitary imprisonment, either in perpetuity, or for time, and according to the duration of the penalty, in lieu of which it shall be awarded.

72. As soon as a person, condemned to the penalty of perpetual hard labour, or hard labour for time, shall have attained the age of seventy years complete, he shall be relieved from his hard labour, and imprisoned in the House of Correction for the remainder of his time, as if he had been only condemned to solitary imprisonment.

73. Innkeepers, convicted of having lodged, for more than twenty-four hours, a person who, during his abode with them, shall commit a crime or delict, shall be civilly responsible for the restitutions, damages, and costs adjudged to those to whom that crime or delict may have occasioned any damage, if such innkeepers have not inscribed, in their registers, the name, the profession, and the domicile of the guilty person; without prejudice to their responsibility, under articles 1952 and 1953 of the Code Napoleon.*

74. In other cases of civil responsibility, which may occur in criminal or correctional affairs, or affairs of police, the courts and tribunals, before which such affairs shall be brought, shall conform themselves to the dispositions of the Code Napoleon, third book, fourth title, second chapter.†

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* These articles relate to the responsibility of Inn-keepers towards their guests.

† This chapter relates to delicts and quasi-delicts.

BOOK THE THIRD.

Of CRIMES and DELICTS, and of their PUNISHMENT.

[Law decreed February 15th, 1810, promulgated February 25th, 1810.]

TITLE I.

Crimes and Delicts against the Commonwealth.

CHAPTER I.

*Crimes and Delicts against the Safety of the State.**

SECTION I.

Of Crimes and Delicts against the EXTERIOR Safety of the State.

75. EVERY Frenchman, who shall have borne arms against France, shall be punished with death.

His property shall be confiscated.

76. Whoever shall have practised any machinations, or kept up any understanding with foreign powers, or their agents, to induce them to commit hostilities, or undertake war

* In Mr. Evans's Collection of the English Statutes, the title "Treason and other Offences against the State," occupies 136 pages, extracted from 67 different Acts of Parliament.

against France, or to procure them the means of doing so, shall be punished with death, and his property shall be confiscated.

This disposition shall take place, even in the case where the above machinations or understanding, shall not have been followed by hostilities.

77. Whoever shall have practised any manœuvres, or kept up any understanding, with the enemies of the state, for the purpose of facilitating their entry upon the territory and dependencies of the French empire, or of betraying to them the towns, fortresses, places, stations, ports, magazines, arsenals, ships or vessels belonging to France; or of providing the enemies with supplies of soldiers, men, money, provisions, arms or ammunition; or of advancing the progress of their arms against the French possessions or forces, by land or sea, either by shaking the fidelity of the officers, soldiers, seamen or others, towards the emperor and the state, or in any other manner, shall be punished with death, and confiscation of property.

78. If the correspondence with the subjects of a hostile power, without having for its object any of the crimes mentioned in the preceding article, has, nevertheless, had for its result, the giving to the enemy information prejudicial to the military or political situation of France, or its allies, those who shall have kept up such correspondence, shall be punished with banishment; without prejudice to the infliction of heavier penalties, in case any such information have been given in consequence of such a plot, as amounts to an act of espionage.

79. The penalties, mentioned in articles 76 and 77, shall be the same, whether the machinations or manœuvres, mentioned in those articles, have been committed against France, or against the allies of France, acting against the common enemy.

80. Every public officer, agent of government, or other person, who, being intrusted, or being officially or by reason of his situation, acquainted with the secret of any negotiation or expedition, shall have betrayed it to the agent of any foreign or hostile power, shall be punished with the penalties expressed in article 76.

81. Every public officer, agent, or overseer of government, with whom, by reason of his functions, any plans of fortifica-

tións, arsenals, ports, or roads for ships, shall have been deposited; and who shall have given up those plans, or any of them, to the enemy, or to any agent of the enemy, shall be punished with death, and his property shall be confiscated.

He shall be punished with banishment, if he have communicated those plans to the agent of any foreign power, neutral or ally.

82. Every person who, by corruption, fraud, or violence, shall have got possession of any such plans, and shall have communicated them, either to the enemy or to the agent of a foreign power, shall be punished in the same manner as the officer or agent, mentioned in the preceding article, and according to the distinctions there established.

If the person who has communicated any such plans, has obtained them without the previous use of unlawful means, the penalty shall be transportation, in the first case mentioned in article 81;

And in the second case of the same article, an imprisonment of from two to five years.

83. Whoever shall have concealed, or caused to be concealed, any spy or soldier of the enemy, sent to reconnoitre, and whom he shall have known so to be, shall be condemned to the penalty of death.

84. Whoever shall, by hostile actions, not approved by the government, have exposed the state to a declaration of war, shall be punished with banishment; and if war has actually ensued, with transportation.

85. Whoever shall, by any act not approved by the government, have exposed any Frenchman to suffer reprisals, shall be punished with banishment.

SECTION II.

Of Crimes against the INTERIOR Safety of the State.

§. I. *Of Attempts and Plots directed against the Emperor and his Family.*

86. An attempt or plot against the life, or against the person of the emperor, is a crime of high treason (*lèse majesté*);

this crime is punished as parricide; and, moreover, infers the confiscation of property.

87. Every attempt or plot against the life or the person of any member of the imperial family;

Every attempt or plot, the object of which shall be,

Either to destroy or change the government, or the order of succession to the throne;

Or to incite the citizens or inhabitants to arm themselves against the imperial authority,

Shall be punished with death and confiscation of property.

88. Such an attempt (*attentat*) exists, whenever any act is committed or commenced, in order to the execution of those crimes, though they have not been actually effected.

89. Such a plot (*complot*) exists, whenever the purpose of acting is concerted and resolved upon, between two or more conspirators, though there may not have been an attempt.

90. If there has not been a plot resolved upon, but only a proposition made, but not agreed to, for forming a plot, to effect the crime mentioned in article 86, he who shall have made such proposition, shall be punished with solitary imprisonment.

The person making a proposition, tending to any of the crimes mentioned in article 87, though such proposition be not agreed to, shall be punished with banishment.

§. II. *Of Crimes tending to disturb the State by Civil War, Illegal Employment of the Armed Force, Public Devastation and Pillage.*

91. Every attempt or plot, the object of which shall be, either to excite civil war, by arming or inducing the citizens or inhabitants to arm themselves against one another,

Or to carry devastation, massacre, and pillage into one or more communes,

Shall be punished with death; and the property of the offenders shall be confiscated.

92. Those who shall have raised, or caused to be raised, armed troops; or shall have engaged or enrolled soldiers, or caused them to be engaged or enrolled; or shall have furnished or procured them arms or ammunition, without order

or authority of the lawful power, shall be punished with death, and confiscation of property.

93. Those who, without right or lawful motive, shall have taken the command of a *corps d'armée*, of a troop, of a fleet, of a squadron of ships, of a ship of war, of a strong place, of a station, of a port, or of a town;

Those who shall have retained any military command, contrary to the order of the government;

The commander who shall have kept his army or troop assembled, after the disbanding or separation thereof shall have been ordered,

Shall be punished with death and confiscation of property.

94. Every person who, having the disposition of the public force, shall have required or ordered, or caused to be required or ordered, the action or employment thereof, in obstruction of the raising of soldiers, legally ordained, shall be punished with transportation.

If such requisition or order has been put in execution, the offender shall be punished with death, and confiscation of property.

95. Whoever shall have set fire to, or destroyed by the explosion of a mine, any buildings, magazines, arsenals, ships, or other property, belonging to the state, shall be punished with death and confiscation of property.

96. Whoever, either in order to seize any domains or public property, or money, places, towns, fortresses, ships, or vessels, belonging to the state; or to plunder or divide any public or national property, or property belonging to any public body of citizens; or in order to make any attack or resistance against the public force, employed in the suppression of those crimes, shall have put themselves at the head of armed bands, or shall have exercised amongst them, any office or command whatever, shall be punished with death, and confiscation of property.

The same penalties shall be inflicted on those who shall have directed such association, levied or cause to be levied, organised or caused to be organised, such bands; or shall have, knowingly and voluntarily, furnished or procured for them, arms, ammunition, and instruments of crime; or shall have sent them supplies of subsistence; or who shall, in any other manner, have held intercourse with the directors or commanders of such bands,

97. In the cases where one or more of the crimes mentioned in articles 86, 87, and 91, shall have been effected, or only attempted by a band, the penalty of death, with confiscation of property, shall be inflicted, without distinction of degrees, on all the individuals making a part of the band, and who shall have been seized upon the spot of the seditious assembly.

Whoever shall have directed the sedition, or shall have exercised any function or command in the band, shall be punished with the same penalties, though he has not been seized upon the spot.

98. In cases where the seditious assembly shall not have had for its object or result, one or more of the crimes mentioned in articles 86, 87, and 91, the individuals making a part of the bands above mentioned, without exercising in them any command or function, and who shall have been seized upon the spot, shall be punished with transportation.

99. Those who, knowing the object and character of the above mentioned bands, shall, without constraint, have furnished them lodgings or places of retreat or meeting, shall be condemned to the penalty of hard labour for time.

100. No penalty shall be awarded, for the fact of sedition, against those who, having made part of those bands, without exercising in them any command or any employment or function, shall have retired, at the first order of the civil or military authorities, or even afterwards; provided such persons shall not have been taken upon the spot of the seditious assembly, and shall have been taken unarmed and without making resistance.

They shall be punished in this case, only for the particular crimes which they shall have personally committed; but, nevertheless, they may be placed, for not less than five, nor more than ten years, under the special superintendence of the high police.

101. In the word *arms* are comprized all machines, instruments, and utensils, capable of producing cuts, wounds, or bruises.

Pocket knives and scissars, or mere walking sticks, shall be reputed arms only when they shall have been made use of in order to kill, wound, or strike.

Disposition common to the two paragraphs of the preceding Section.

102. Those who, either by discourses pronounced in public places or meetings, or by bills posted up, or by printed writings, shall have directly excited the citizens or inhabitants to commit the crimes and plots mentioned in the present section, shall be punished as guilty of those crimes or plots.

Nevertheless, in the cases where these incitements shall not have been followed by any effect, the actors thereof shall only be punished with banishment.

SECTION III.

Of the revealing, and not revealing, of Crimes which endanger the Interior or Exterior Safety of the State.

103. The persons who shall have had knowledge of plots formed, or crimes projected, against the foreign or domestic safety of the state, and shall not have made known those plots or crimes, and shall not have revealed to the government, or to the administrative authorities, or authorities of judicial police, the circumstances of which they may have acquired the knowledge, the whole within twenty-four hours next after they shall have learnt the same, although they may not be accomplices, shall be punished for the very fact of not having revealed them, in the manner and according to the distinctions following.

104. With respect to high treason, every one who, in the case mentioned in the preceding article, shall not have made the declarations which are prescribed therein, shall be punished with solitary imprisonment.

105. With respect to the other crimes or plots mentioned in the present chapter, every person who shall have acquired the knowledge of them, and shall not have made the declarations prescribed by article 103, shall be punished with an imprisonment of from two to five years, and with a fine of from 500 to 2,000 francs.*

106. The person who shall have had knowledge of the above-named crimes or plots, and shall not have revealed the same, shall not be excused on pretence that he has

* The Franc is equal to about tenpence English.

not approved of them, or even that he has opposed himself to them, and has endeavoured to dissuade the authors thereof from carrying them into effect.

107. Nevertheless, if the author of the plot or crime be husband or wife, (even though divorced), ascendant or descendant, brother or sister, or related by affinity in the same degrees, to the person accused of concealment, the latter shall not be subject to the penalties pronounced in the preceding articles; but he may be placed, by sentence or judgment, under the special superintendence of the high police, for not more than ten years.

108. The offenders who, before any execution of plots or other crimes endangering the interior or exterior safety of the state, or any attempt thereat, and before any prosecution has commenced, shall have been the first to give information of those crimes or plots, and of the authors or accomplices thereof, to the authorities mentioned in article 103; or who, even after the commencement of the prosecution, shall have procured the apprehension of such authors or accomplices, shall be exempted from the penalties pronounced against the authors of such crimes or plots.

Offenders who shall have given such information, or procured such apprehension, may, nevertheless, be placed, for the remainder of their lives, or for time, under the special superintendence of the high police.

CHAPTER II.

Crimes and Delicts against the Constitutions of the Empire.

SECTION I.

Of Crimes and Delicts relative to the exercise of Civic Rights.

109. Whenever, by tumult (*attroupement*), actual force (*voies de fait*), or threats, one or more citizens shall have been hindered from exercising their civic rights, every one

of the guilty persons shall be punished with an imprisonment of not less than six months, nor more than two years, and with interdiction from the right of voting and being eligible, during not less than five years, nor more than ten years.

110. If such crime has been committed in consequence of a concerted plan, to be executed either all over the empire, or in one or more departments, or in one or more communal arrondissements, the penalty shall be banishment.

111. Every citizen who, being entrusted in any scrutiny, with the opening of the tickets containing the votes of the citizens, shall be detected falsifying any such tickets, or abstracting any of them, or adding any to their number, or writing upon the tickets of illiterate voters, any other names than those which he shall have been directed by them so to write, shall be punished with the penalty of the pillory.

112. All other persons guilty of the facts mentioned in the preceding article, shall be punished with an imprisonment of not less than six months, nor more than two years, and with interdiction from the right of voting or being eligible, during not less than five years, nor more than ten years.

113. Every citizen who shall have bought or sold a vote at any election, for any price whatever, shall be punished with interdiction from the rights of a citizen, and from all public functions or employments, during not less than five years, nor more than ten years.

The seller and purchaser of such vote, shall, moreover, each of them be condemned to a fine of double the value of the thing received or promised.

SECTION II.

Attempts against Liberty.

114. If any public officer, agent, or overseer, of the government, shall have ordered or done any arbitrary act, prejudicial (*attentatoire*), either to the individual liberty, or to the civic rights, of one or more citizens, or to the

constitutions of the empire, he shall be condemned to the penalty of civic degradation.

If, nevertheless, he can prove that he has acted by order of his superiors, in matters within their jurisdiction, and concerning which obedience was due to them from their inferiors, he shall be exempted from the penalty, which, in this case, shall be inflicted only on the superiors who shall have given the order.

115. If it be a minister who has ordered or done the acts mentioned in the preceding article, or any one or more of them, and if, after the invitations mentioned in articles 63 and 67, of the *senatus consultum* of the 28th Floréal, in the 12th year of the republic, he has refused or neglected to cause such acts to be redressed, within the time fixed by the said *senatus consultum*, he shall be punished with banishment.

116. If the ministers accused of having ordered or authorized the act contrary to the constitutions, pretend that the signature imputed to them has been obtained from them by surprise, they shall be obliged, when they recall such act, to denounce the person, whom they shall declare the author of such surprise, otherwise they shall be prosecuted personally.

117. The damages which may be adjudged, on account of the attempts expressed in article 114, shall be sued for, either in the criminal prosecution, or civilly; and in assessing them respect shall be had to the persons, circumstances, and detriment suffered; but in no case, nor whoever may be the individual wronged, shall the above damages be less than twenty-five francs, for each day of illegal and arbitrary detention, for each individual.

118. If the act contrary to the constitutions has been done in consequence of the false signature of a minister or public officer, the authors of such forgery (*faux*), and those who shall have knowingly made use of it, shall be punished with hard labour for time, whereof the *maximum* shall always be inflicted in this case.

119. The public officers entrusted with the administrative and judiciary police, who shall have refused or neglected to comply with any legal requisition, made for the purpose of substantiating any illegal and arbitrary detentions, either in the houses appointed for the custody of the detained persons, or elsewhere, and who shall not prove that they have denounced such detentions to the superior

authority, shall be punished with civic degradation, and shall be liable to the damages, which shall be assessed as is prescribed in article 117.

120. The guardians and keepers of lock-up houses, bridewells, or houses where prisoners are kept for trial or for punishment, (*maisons de dépôt, d'arrêt, de justice, ou de peine*), who shall have received any prisoner without warrant (*mandat*) or sentence, or without provisional order of the government; those who shall have detained him or refused to produce him to the officer of police, or to the bearer of his orders, without shewing any prohibition so to do from the attorney general (*procureur impérial*), or the judge; and those who shall have refused to exhibit their registers to the officer of police, shall be punished as persons guilty of arbitrary detention, with an imprisonment of from six months to two years, and with a fine of from sixteen francs to two hundred francs.

121. All officers of judiciary police, attornies general, deputy attornies general, or judges, who shall have demanded, given, or signed any judgment, ordinance or warrant, tending to the personal prosecution or accusation, either of a minister, or of a member of the senate, council of state, or legislative body, without the authority prescribed by the constitutions; or who, except in case of persons taken in the fact, (*flagrant délit*) or of hue and cry (*clameur publique*) shall have given or signed, without such authority, any order or warrant for seizing or arresting one or more ministers or members of the senate, council of state, or legislative body, shall be punished, as persons guilty of forfeiture, with civic degradation.

122. The attornies general, deputy attornies general, judges, or public officers, who shall have detained, or caused to be detained, any individual out of the places appointed by the government or the public administration, or who shall have brought (*traduit*) before a court of assizes, or a special court, any citizen who has not previously been placed legally in accusation, shall also be punished with civic degradation.

SECTION III.

Conspiracies by Public Officers.

123. Every concert of measures contrary to the laws, practised either by a combination of individuals, or of bodies entrusted with some part of the public authority, or by any deputation or correspondence amongst them, shall be punished with an imprisonment of not less than two months, nor more than six months, to be inflicted upon each guilty person; who may, moreover, be condemned to interdiction of civic rights, and of every public office, for a time not exceeding ten years.

124. If, by any of the above-mentioned means, any measures shall have been concerted against the execution of the laws, or against the orders of the government, the penalty shall be banishment.

If such concert have taken place between any civil authorities, and any military bodies, or their commanders, those who shall be the authors or inciters *(provocateurs)* of such concert, shall be punished with transportation; the other guilty persons shall be banished.

125. Where such a concert shall have had for its object or result, a plot against the interior safety of the state, the guilty persons shall be punished with death, and their property shall be confiscated.

126. The public officers who shall, by deliberation amongst themselves, have agreed to give in resignations, the object or the effect of which, would be to disturb or suspend, either the administration of justice, or the performance of any public service, shall be guilty of forfeiture, and be punished with civic degradation.

SECTION IV.

Encroachment of administrative and judiciary authorities.

127. 1st. The judges, attornies-general, deputy attornies-general, and officers of police, who shall have intermeddled in the exercise of the legislative power, either by regulations containing any legislative dispositions, or by hindering or suspending the execution of one or more laws, or

by deliberating upon the question, whether or not the laws shall be published or executed;

2d. The judges, attornies-general, deputy attornies-general, and officers of judiciary police, who shall have exceeded their power, by intermeddling in matters belonging to the administrative authorities, either by making any regulations upon such matters, or by forbidding the execution of orders issuing from the administration; or who, after having permitted or ordered the administrators to be cited, on account of the exercise of their functions, shall have persisted in the execution of their judgments, or ordinances, notwithstanding the reversal thereof, which shall have been pronounced, or the appeal against the same, whereof they shall have notice;

Shall be guilty of forfeiture, and be punished by civic degradation.

128. The judges who, notwithstanding the claim of cognisance (*revendication*), formally made by the administrative authority, of an affair brought before them, shall have proceeded to judgment, before the decision of the superior authority, shall be punished, each of them, with a fine of not less than sixteen francs, nor more than one hundred and fifty francs.

The officers of the public ministry, who shall have made requisitions, or given in arguments (*conclusions*), for such judgment, shall be punished with the same penalty.

129. The penalty shall be a fine of not less than one hundred francs, nor more than five hundred francs, against each of the judges who, notwithstanding a legal reclamation of the interested parties, or of the administrative authority, shall, without the authority of the government, have made ordinances, or granted warrants, against its agents or overseers, who may be accused of crimes or delicts committed in the exercise of their functions.

The same penalty shall be inflicted on the officers of the public ministry, or of police, who shall have required the said ordinances or warrants.

130. The prefects, sub-prefects, mayors, and other administrators, who shall have intermeddled in the exercise of legislative power, as is mentioned in the first number of article 127; or who shall have taken upon themselves to make general orders, tending to intimate any command or prohibition whatever, to courts or tribunals, shall be punished with civic degradation.

131. When such administrators shall incroach upon the judiciary functions, by taking upon themselves the cognisance of private rights and interests, belonging to the jurisdiction of the tribunals, and shall have proceeded, notwithstanding the reclamation of the parties, or of any of them, to decide the cause before the superior authority has pronounced upon such reclamation, they shall be punished with a fine of not less than sixteen francs, nor more than one hundred and fifty francs.

CHAPTER III.

Crimes and Delicts against the Public Peace.

[Law decreed February 16th, 1810, promulgated February 26th, 1810.]

SECTION I.

*OF FORGERY.**

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§ I. *False Money.*

132. Whoever shall have counterfeited or altered the silver or gold coin, legally current in France; or shall have taken part in the issue or uttering of such counterfeit or altered coin; or in bringing the same within the French territory, shall be punished with death, and his property shall be confiscated.

133. Whoever shall have counterfeited or altered the coin below standard *(de billon)*, or copper coin legally current in France; or shall have taken part in the issue or

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* In Mr. Evans's Collection of the English Statutes, the "*Offences relating to Coin and Bullion*" occupy 86 Pages, comprizing Extracts from 83 Acts of Parliament; and the Title "*Forgery*" extends to upwards of 40 Pages, extracted from 26 Acts of Parliament.

uttering of such counterfeit or altered coin, or in bringing the same within the French territory, shall be punished with perpetual hard labour.

134. Whoever shall have been guilty, in France, of counterfeiting or altering foreign coin, or of taking part in the issue, uttering, or bringing into France, of counterfeit or altered foreign coin, shall be punished with hard labour for time.

135. The taking part, mentioned in the preceding articles, does not apply to those who, having received counterfeited or altered coin, as good, shall have put the same again into circulation.

Nevertheless, whoever shall have made use of the said coin, knowing the same to be bad, shall be punished with a fine of not less than three times, nor more than six times the sum represented by the coin which he shall have so put into circulation; but this fine shall never be less than sixteen francs.

136. Those who shall know of any place where gold, silver, *billon*, or copper coin, legally current in France, shall be counterfeited or altered; or where such counterfeit or altered coin is deposited; and who shall not, within twenty four hours, reveal what they know to the administrative authorities, or authorities of judiciary police, shall, for the mere fact of not revealing, and even though they are acknowledged to be not guilty as accomplices, be punished with an imprisonment of from one month to two years.

137. Nevertheless, the ascendants, descendants, husbands and wives, even divorced, brothers and sisters of the persons actually guilty, and those related to them by affinity in the same degree, shall be excepted from the preceding disposition.

138. The persons guilty of the crimes mentioned in articles 132 and 133 shall be exempted from punishment, if, before the consummation of those crimes, and before any prosecution, they have given information of them, and revealed the authors to the constituted authorities; or if even after prosecution commenced, they have procured the arrest of other guilty persons.

They may, nevertheless, be placed, for the remainder of their lives, or for time, under the special superintendence of the high police.

§ II. *Counterfeiting of the Seals of the State, of Bank Notes, of the Public Stocks,* (Effets) *and of Puncheons, Stamps, and Marks.*

139. Those who shall have counterfeited the Seal of the State, or made use of such counterfeit seal;

Those who shall have counterfeited or falsified, either any stock certificates (*effets*), issuing from the public treasury, with its stamp; or bank notes. or bills, authorized by law; or who shall have made use of such counterfeited or falsified certificates, notes, or bills, or who shall have brought them into the French territory;

Shall be punished with death, and their property shall be confiscated.

140. Those who shall have counterfeited or falsified, either one or more national stamps, or the hammers of the state used for forest marks, or the puncheon or puncheons used to mark gold and silver plate; or who shall have made use of such falsified or counterfeited papers, stock certificates, stamps, hammers, or puncheons, shall be punished with hard labour for time; the *maximum* of which punishment shall always be inflicted in this case.

141. Whoever, having unduly possessed himself of the genuine stamps, hammers, or puncheons, intended for any of the purposes expressed in article 140, shall have made any application or use of them, prejudicial to the rights and interests of the state, shall be punished with solitary imprisonment.

142. Those who shall have counterfeited the marks appointed to be put, in the name of the government, on the different kinds of provisions or merchandizes, or shall have made use of such false marks;

Those who shall have counterfeited the seal, stamp, or mark, of any authority whatever, or of any private banking or commercial establishment, who shall have made use of such counterfeit seals, stamps, or marks;

Shall be punished with solitary imprisonment.

143. Whoever, having unduly possessed himself of the genuine seals, stamps, or marks intended for any of the purposes expressed in article 142, shall have made any application or use of them, prejudicial to the rights or interests of the state, of any authority whatever, or even of any private establishment, shall be punished with the pillory.

144. The dispositions of articles 136, 137, and 138, are applicable to the crimes mentioned in article 139.

§ III. *Of Forgery of Public or Authentic Writings, and of Commercial or Banking Instruments.*

145. Every functionary, or public officer, who, in the exercise of his functions, shall have committed a forgery, (*faux*),

Either by false signatures,

Or by altering the acts, writings, or signatures,

Or by means of personation (*par supposition de personnes*),

Or by means of writings made or interpolated in registers or other public acts, after their completion or closing;

Shall be punished with perpetual hard labour.

146. Every functionary or public officer who, in drawing up the acts relating to his ministry, shall have fraudulently altered the substance or the circumstances of them, either by writing down contracts different from those which shall have been drawn or dictated by the parties, or by stating, as true, any false facts, or by stating confessions not really made; shall also be punished with perpetual hard labour.

147. All other persons who shall have committed a forgery in any public or authentic writing, or in any commercial or banking instrument,

Either by counterfeiting or altering any writings or signatures,

Or by forging contracts, conveyances, obligations, or releases, or by inserting the same in any such acts after signature,

Or by adding to, or altering, the clauses, declarations, or facts, which such acts were intended to contain or to state,

Shall be punished with hard labour for time.

148. In all the cases expressed in the present paragraph, he who shall have made use of such false acts shall be punished with hard labour for time.

149. Forgeries of passports and route papers (*feuilles de route*), are excepted from the above dispositions, and shall be hereinafter particularly provided for.

§ IV. *Of Forgery of private Writings.*

150. Whoever, in any of the ways expressed in article 147, shall have committed a forgery of any private writing, shall be punished with solitary imprisonment.

151. Whoever shall have made use of such forged writing, shall be punished with the same penalty.

152. Certificates, of the kind hereinafter mentioned, are excepted from the above dispositions.

§ V. *Of Forgery committed in Passports, Route-papers and Certificates.*

153. Whoever shall fabricate a false passport, or falsify a passport originally genuine, or shall make use of a fabricated or falsified passport, shall be punished with an imprisonment of not less than one year, nor more than five years.

154. Whoever shall take an assumed name, in a passport, or shall have concurred, as a witness, in procuring the passport to be delivered in such assumed name, shall be punished with an imprisonment of from three months to one year.

The keepers of lodgings, and innkeepers who shall knowingly enter in their registers, the persons lodged at their houses, under false or assumed names, shall be punished with an imprisonment of not less than six days, nor more than one month.

155. The public officers who shall deliver a passport to a person whom they do not know personally, without having caused his names and description to be attested by two citizens known to them, shall be punished with an imprisonment of from one month to six months.

If the public officer, knowing the name to be assumed, has, nevertheless, delivered the passport under the assumed name, he shall be punished with banishment.

156. Whoever shall fabricate a false route-paper, or falsify a route-paper originally genuine, or make use of a fabricated or falsified route-paper, shall be punished as follows;

With an imprisonment of not less than one year, nor more than five years, if the false route-paper has only had for its object to deceive the superintendence of the public authority;

With banishment, if the public treasury has paid to the

bearer of the false route-paper any travelling expenses which were not due to him, or which exceeded those to which he was entitled, in case the sums unduly received are less than one hundred francs;

With solitary imprisonment, if the sums unduly received, amount to one hundred francs or more.

157. The penalties expressed in the preceding article shall be inflicted, with the distinctions which are therein established, on every person who shall have procured to be delivered to himself, by the public officer, a route-paper, under an assumed name.

158. If the public officer knew the name to be assumed, when he delivered the route-paper, he shall be punished as follows;

In the first case established in article 156, with banishment;

In the second case of the same article, with solitary imprisonment;

In the third case, with hard labour for time.

159. Whoever, in order to screen himself, or another person, from any public service, shall have fabricated, under the name of a physician, or other officer of health, any certificate of sickness or infirmity, shall be punished with an imprisonment of from two to five years.

160. Every physician, surgeon, or other officer of health, who, in order to favour any person, shall falsely certify any sickness or infirmity, exempting such person from any public service, shall be punished with an imprisonment of from two to five years.

If he has been induced so to do, by gifts or promises, he shall be punished with banishment: the persons bribing him shall, in this case, be punished with the same penalty.

161. Whoever shall fabricate, under the name of a public officer, any certificate of good behaviour, indigence, or other circumstance, calculated to draw the benevolence of the government, or of individuals, towards the person designated therein, and procure to him places, credit, or assistance; shall be punished with an imprisonment of from six months to two years.

The same penalty shall be inflicted; 1st. upon him who shall have falsified a certificate of this kind, originally genuine, in order to adapt it to any person, other than him to whom it has been originally delivered; 2d, on every one

who shall have made use of the certificate thus fabricated or falsified.

162. False certificates, of every other nature, and from which may result, either injury to third persons, or prejudice to the public treasury, shall be punished, as the case may require, according to the dispositions of the 3d and 4th paragraphs of the present section.

Common Dispositions.

163. The application of the penalties, enacted against those who have made use of false, counterfeited, fabricated, or falsified, coin, notes, or bills, seals, stamps, hammers, puncheons, marks, or writings, shall not take place, whenever the forgery shall not have been known by the person who shall have made use of the thing forged.

164. In all cases where the punishment of forgery is not accompanied by the confiscation of property, the guilty persons shall be punished with a fine, the *maximum* of which may amount to the fourth part of the unlawful advantage which the forgery shall have procured, or been intended to procure, to the authors of the crime, to their accomplices, or to those who have made use of the thing forged. The *minimum* of such fine shall never be less than 100 francs.

165. Branding shall be inflicted upon every forger, condemned either to hard labour for time, or even to solitary imprisonment.

SECTION II.

Of Forfeitures, and of Crimes or Delicts committed by Public Officers, in the Exercise of their Functions.

166. Every *crime* committed by a public officer, in his functions, is a forfeiture.

167. Every forfeiture against which the law does not pronounce any higher penalty, is punished with civic degradation.

168. Mere *delicts* do not place public officers in a state of forfeiture.

§ I. *Of Embezzlements committed by Public Depositaries*

169. Every receiver (*percepteur*), clerk in a receiver's office, depositary, or person accountable to the public

who shall have misapplied or embezzled, any public or private money, or credits *(effets actifs)*, representing the value thereof, or any documents, titles, acts, or moveable effects, which were in his hands in consequence of his functions, shall be punished with hard labour for time, if the the things misapplied or embezzled were of a value of above 3,000 francs.

170. The penalty of hard labour for time shall also take place, whatever may be the value of the money or effect misapplied or embezzled, if this value equals or exceeds, either the third part of the receipt or deposit, in cases of money or effects at one time received or deposited; or the security given in cases of receipts or deposits, connected with any place for which security is required; or the third part of the usual amount of the receipt for a month, in case of a receipt composed of successive sums, and for which security is not required.

171. If the value of what is misapplied or embezzled, be under 3,000 francs, and also under the measures expressed in the preceding article, the penalty shall be an imprisonment of not less than two years, nor more than five years; and the condemned person shall, moreover, be declared for ever incapable of exercising any public function.

172. In the cases expressed in the three preceding articles, a fine, the *maximum* of which shall be a fourth part of the restitutions and indemnifications, and the *minimum* a twelfth part thereof, shall always be awarded against the guilty person.

173. Every judge, administrator, functionary, or public officer, who shall have destroyed, suppressed, embezzled, or misapplied the acts, or titles of which he was (in that quality) the depositary; or which shall have been committed or communicated to him in consequence of his functions, shall be punished with hard labour for time.

The agents, overseers, or clerks, either of the government, or of the public depositaries, who shall have been guilty of the same embezzlements, shall be punished with the same penalty.

§. II. *Of Extortions committed by Public Officers.*

174. Functionaries or public officers, their clerks or overseers, receivers of public or communal rights, taxes,

contributions, money, or revenues, and their clerks or overseers, who shall have been guilty of the crime of extortion, by exacting, or receiving, or ordering the receipt of, what they knew not to be due, or to exceed what was really due, for such rights, taxes, contributions, money, or revenues, or for salaries or allowances; shall be punished as follows: namely, functionaries or public officers, with the penalty of solitary imprisonment; and their clerks or overseers, with an imprisonment of not less than two years, nor more than five years.

The guilty persons shall, moreover, be condemned to a fine, the *maximum* of which shall be a fourth part of the restitutions and damages, and the *minimum*, a twelfth part.

§. III. *Of Delicts of Public Officers who have taken part in Affairs or Commerce, incompatible with their quality.*

175. Every functionary, public officer, or agent of the government, who, either openly, or by means of simulated acts, or the interposition of other persons, shall have taken or received any interest whatever, in the acts, adjudications, contracts, or government monopolies *(régies)*, of which he has, or had at the time of the act, in whole or in part, the administration or superintendence, shall be punished with an imprisonment of not less than six months, nor more than two years; and shall, moreover, be condemned to a fine which must not exceed a fourth part, nor be under a twelfth part, of the restitutions and indemnifications.

He shall, moreover, be declared for ever incapable of exercising any public function.

The present disposition is applicable to every officer or agent of government who shall have taken any interest whatever, in any affair of which he was entrusted to manage the payment or liquidation.

176. Every commander of military divisions, of departments, or of places and towns, every prefect or sub-prefect, who shall have carried on, within the extent of the places where he has right to exercise his authority, openly or by means of simulated acts, or the interposition of other persons, any trade in corn, grain, flour, farinaceous substances, wines, or liquors, not being the produce of his own estates;

shall be punished with a fine of not less than 500 francs, nor more than 10,000 francs, and with the confiscation of the wares belonging to such trade.

§ IV. *Of Corruption in public Officers.*

177. Every public officer of the administrative or judiciary order, every agent or overseer of any public administration, who shall have accepted any offers or promises, or received any gifts or presents, to do any act of his function or employment, even if just, but not entitling him to payment; shall be punished with the pillory, and condemned to a fine of double the value of the promises accepted, or things received; the said fine to be never less than 200 francs.

The present disposition is applicable to every officer, agent, or overseer, of the quality above expressed, who, for offers or promises accepted, gifts or presents received, shall have abstained from doing any act relating to the duty of his office.

178. In case the corruption shall have had for its object a criminal act requiring a penalty more severe than the pillory, that severer penalty shall be inflicted upon the guilty persons.

179. Whoever shall have compelled, or attempted to compel, by actual violence or threats; or shall have corrupted, or attempted to corrupt, by promises, offers, gifts, or presents, any public officer, agent, or overseer, of the quality expressed in article 177, in order to obtain from him, either a favourable opinion, or any minutes *(procès-verbaux)*, statements of accounts (*états*), certificates, or estimates, contrary to the truth; or any places, employments, adjudications, contracts, or other benefits whatever; or any other act whatever of the ministry of such public officer, agent, or overseer; shall be punished with the same penalties as the corrupted officer, agent, or overseer.

Nevertheless, if the attempts at corruption or compulsion have had no effect, the authors of such attempts, shall only be punished with an imprisonment of not less than three months, nor more than six months, and a fine of from 100 to 300 francs.

180. No restitution shall be made to the corrupter,* of the things by him given or delivered, or of the value thereof; they shall be confiscated to the use of the hospitals of the places where the corruption shall have been committed.

181. If it be a judge, giving judgment in any criminal matter, or a juryman, who has suffered himself to be corrupted, either in favour, or to the prejudice, of the accused, he shall be punished with solitary imprisonment, besides the fine ordained by article 177.

182. If, in consequence of the corruption, there has been a condemnation to a greater penalty than solitary imprisonment, that penalty, whatever it may be, shall be inflicted upon the judge or juryman guilty of the corruption.

183. Every judge or administrator, who shall have permitted himself to be governed by favour for, or enmity against, either party, shall incur the penalty of forfeiture; and be punished with civic degradation.

§. V. *Of Abuses of Authority.*

FIRST CLASS.

Of Abuses of Authority against Private Persons.

184. Every judge, attorney general, deputy attorney general, substitute, administrator, or other officer of justice or police, who shall have entered the dwelling of any citizen, except in the cases provided for by law, and without the formalities which the law has prescribed, shall be punished with a fine of not less than 16 francs, nor more than 200 francs.

185. Every judge or tribunal, administrator, or administrative authority, who, under any pretence whatsoever, even under pretence of the silence or obscurity of the law, shall have refused to render the justice which they owe to the parties, after having been required so to do, and who shall have persevered in such refusal, after warning or injunction of his superiors; may be prosecuted, and shall be punished with a fine of not less than 200 francs, nor more than 500 francs; and with interdiction from the exercise of public functions, for from five years to twenty years.

186. When any functionary or public officer, administrator, agent, or overseer of the government or police; any executor of the warrants of justice or judgments, any commander in chief, or subordinate officer of the public force, shall, without lawful cause, have used, or caused to be used, any violence towards persons, in the exercise, or on occasion of the exercise, of his functions; he shall be

punished according to the nature and degree of such violence; the penalty being increased according to the rule established in article 198, hereafter.

187. Every suppression or opening of letters intrusted to the post, committed or facilitated by an officer or agent of the government, or of the post office, shall be punished with a fine of from 16 to 300 francs. The guilty person shall, moreover, be interdicted from any public function or employment whatever, during not less than five years, nor more than ten years.

SECOND CLASS.

Of Abuses of Authority against the Commonwealth.

188. Every public officer, agent, or overseer of government, of whatever condition or degree, who shall have required or ordered, or caused to be required or ordered, the action or employment of the public force, against the execution of any law, or against the collection of any legal contribution, or against the execution, either of any order or warrant of justice, or of any other order issuing from lawful authority; shall be punished with solitary imprisonment.

189. If such requisition or order have produced their effect, the penalty shall be transportation.

190. The penalties established in articles 188 and 189, shall cease to be applicable to officers or overseers, who shall have acted by order of their superiors, only in the case where such order shall have been given by such superiors, for objects within their jurisdiction, and about which obedience was due to them from their inferiors; in this case the penalties above expressed, shall be inflicted only upon the superiors, who shall have first given such order.

191. If, in consequence of the said orders or requisitions, other crimes shall ensue, punishable with penalties more severe than such as are expressed in articles 188 and 189, those severer penalties shall be inflicted upon the officers, agents, and overseers, guilty of having given the said orders, or made the said requisitions.

§. VI. *Of some Delicts relative to the keeping of the Acts of the Civil State.**

192. The officers of the civil state, who shall have entered their acts upon mere loose sheets, shall be punished with an imprisonment of not less than one month, nor more than three months, and with a fine of from 16 to 200 francs.

193. When, for the validity of a marriage, the law requires the consent of fathers, mothers, or other persons, and the officer of the civil state shall not have assured himself of the existence of such consent; he shall be punished with a fine of from 16 to 300 francs, and with an imprisonment of not less than six months, nor more than one year.

194. The officer of the civil state shall also be punished with a fine of from 16 to 300 francs, when he shall have taken, before the term prescribed by article 228 of the Code Napoleon, the act of marriage of a woman who has been before married.†

195. The penalties pronounced in the preceding articles, against the officers of the civil state, shall be inflicted upon them, even in the cases where the nullity of their acts shall not have been required, or shall have been cured (*couverte*);‡ all without prejudice to the more severe penalties pronounced in case of collusion, and also without prejudice to the other penal dispositions of the V[th] Title of the 1[st] Book of the Code Napoleon.¶

§. VII. *Of the Exercise of Public Authority, illegally anticipated or prolonged.*

196. Every public officer, who shall have entered upon

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* These acts correspond nearly with parochial registers in England. The civil state is the condition of individuals in relation to births, marriages, deaths, &c. The acts or registers are said to be taken (*reçus*) by the officer of the civil state.

† *i. e.* Ten months after the dissolution of the former marriage.

‡ The causes for which acts, judgements, or proceedings may be annulled are said to be covered or cured, when the parties are no longer allowed to bring forward such causes for that purpose.

¶ Articles 156, 176, and 193, Code Napoleon, which inflicts fine, imprisonment, and interdiction upon the public officers, for irregularities in respect to the publication or forbidding of bans, or to ascertaining the consent of proper parties.

the exercise of his functions, without having taken the oath, may be prosecuted, and shall be punished with a fine of from 16 to 150 francs.

197. Every public officer who, after being discharged, dismissed, suspended, or legally interdicted, and having been officially informed thereof, shall have continued the exercise of his functions, or who, holding an elective or temporary office, shall have exercised his functions after the appointment of his successor; shall be punished with an imprisonment of not less than six months, nor more than two years, and with a fine of from 100 to 500 francs.

He shall be interdicted from the exercise of any public function, for not less than five years, nor more than ten years, commencing from the day upon which he shall have undergone his punishment; all without prejudice to the more severe penalties awarded against military officers or commanders, in article 93 of the present code.

Particular Disposition.

198. In cases where the law does not settle, specially, the penalties incurred for crimes or delicts committed by public officers, such of them as shall have participated in other crimes or delicts, which they were charged to watch over or repress, shall be punished as follows:

In case of a delict of correctional police, they shall always undergo the *maximum* of the penalty pronounced against that kind of delict;

And in case of crimes requiring an afflictive penalty, they shall be condemned as follows, namely:

To solitary imprisonment, if the crime would require, against any other guilty person, the penalty of banishment, or the pillory;

To hard labour for time, if the crime would require, against any other guilty person, the penalty of solitary imprisonment;

To perpetual hard labour, when the crime would require, against any other guilty person, the penalty of transportation, or hard labour for time,

Except in the cases above expressed, the ordinary penalty shall be inflicted without aggravation.

SECTION III.

*Of Disturbances of Public Order, occasioned by Ministers of Religious Worship, in the exercise of their Ministry.**

§. I. *Of Contraventions endangering the Civil State of Persons.*

199. Every minister of any sect, who shall proceed to the religious ceremonies of a marriage, without having it proved to him that an act of marriage has been previously taken (*recu*), by the officers of the civil state, shall be punished, for the first offence, with a fine of from 16 to 100 francs.

200. In case of repeated contraventions of the kind expressed in the preceding article, the minister of worship who shall have committed them, shall be punished as follows, namely:

For the first repetition of the offence, with an imprisonment of from two years to five years;

And for the second, with transportation.

§ II. *Of Criticisms, Censures, or Provocations, directed against the public Authority, in any Pastoral Discourse, publicly pronounced.*

201. Ministers of religion, who shall pronounce, in the exercise of their ministry, and in a public assembly, any discourse, containing any criticism upon, or censure of, government, or of any law, imperial decree, or other act of the public authority, shall be punished with an imprisonment of from three months to two years.

202. If the discourse contains any direct incitement to disobedience of the laws, or any other acts of the public authority, or if it tend to stir up or arm a part of the citizens against the others; the minister of religion who shall have pronounced it, shall be punished with an imprisonment of from two to five years, if the provocation has not been followed by any effect; and with banishment, if it has caused any disobedience, other than such as shall have ended in sedition or revolt.

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* There are 97 English Statutes affecting "*Religion and Ecclesiastical Authority*," which Title occupies 93 Pages in Mr. Evans's Collection.

203. When the incitement shall have been followed by any sedition or revolt, the nature of which shall give occasion to any penalty, more severe than that of banishment, against one or more of the guilty persons; such penalty, whatever it may be, shall be inflicted upon the minister guilty of the incitement.

§. III. *Of Criticisms, Censures, or Provocations, directed against the public Authority, in any pastoral Writing.*

204. Every writing, containing pastoral instructions, in whatever form it may be, and in which a minister of religion shall have taken upon himself to criticise or censure, either the government, or any act of the public authority, shall occasion the penalty of banishment, against the minister who shall have published it.

205. If the writing, mentioned in the preceding article, contain a direct incitement to disobedience of the laws, or other acts of the public authority, or if it tend to stir up or arm a part of the citizens against the others, the minister who shall have published it, shall be punished with transportation.

206. When the incitement, contained in the pastoral writing, shall have been followed by a sedition or revolt, the nature of which shall give occasion to any penalty more severe than that of transportation, against one or more of the guilty persons, such penalty, whatever it may be, shall be inflicted upon the minister guilty of the incitement.

§. IV. *Of the Correspondence of Ministers with any Foreign Courts or Powers, on Matters of Religion.*

207. Every minister of religion, who shall have kept up a correspondence with any foreign court or power, upon questions of religious concern, without having previously given information thereof to the minister of the emperor, entrusted with the superintendence of religious sects, and without having obtained his authority; shall be punished, for this mere fact, with a fine of from 100 francs to 500 francs, and with an imprisonment of from one month to two years.

208. If the correspondence, mentioned in the preceding article, has been accompanied or followed by other actions, contrary to the formal dispositions of any law, or decree of the emperor; the guilty person shall be punished

with banishment, unless the penalty resulting from the nature of such facts be more severe, in which case that severer penalty alone shall be inflicted.

SECTION IV.

Resistance, Disobedience, and other Defaults, in Regard to the Public Authority.

§. I. *REBELLION.**

209. Every attack or resistance, with violence and actual force, against the ministerial officers, the rural or forestal guards, the public force, the overseers of the receipt of taxes or contributions, or the persons enforcing payment under their warrant, the overseers of the customs, the sequestrators, the officers or agents of the administrative or judiciary police, acting for the execution of the laws, the orders or ordinances of the public authority, the warrants of justice or judgments; is denominated, according to the circumstances, the crime or delict of rebellion.

210. If it has been committed by more than twenty persons armed, the guilty persons shall be punished with hard labour for time; and if there has been no bearing of arms, they shall be punished with solitary imprisonment.

211. If the rebellion has been committed by an armed assembly of three persons or more, up to twenty, inclusively, the penalty shall be solitary imprisonment; if there has been no bearing of arms, the penalty shall be an imprisonment of not less than six months, nor more than two years.

212. If the rebellion has been committed only by one or two persons, with arms, it shall be punished with an imprisonment of from six months to two years; and if it has been committed without arms, it shall be punished with an imprisonment of from six days to six months.

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* In Mr. Evans's Collection of the English Statutes, the title "Riots, and Offences attended with Riot and Violence," occupies 103 pages, extracted from 67 different acts of parliament.

213. In case of rebellion, by band or gathering of people; article 100 of the present code, shall be applicable to the rebels, without functions or employment in the band, who shall have retired at the first warning, by the public authority, or even afterwards, if they have only been taken at a distance from the place of the rebellion, without fresh resistance, and without arms.

214. Every assembly of individuals, for a crime or delict, is considered an armed assembly, when more than two persons bear ostensible arms.

215. The persons who shall be found provided with concealed arms, and who shall have made part of a troop or assembly, not considered as armed, shall be individually punished, as if they had made part of an armed troop, or assembly.

216. The authors of the crimes and delicts, committed during the course, and on the occasion, of a rebellion, shall be punished with the penalties pronounced against each of such crimes, if they are more severe than those for rebellion.

217. Whoever shall have incited a rebellion, either by discourses pronounced in any public places or assemblies, or by bills posted up, or by printed writings, shall be punished as guilty of such rebellion.

In case the rebellion shall not have taken place, the inciter *(provocateur)*, shall be punished with an imprisonment of not less than six days, nor more than one year.

218. In all cases where a simple penalty of imprisonment shall be awarded for rebellion, the guilty persons may be condemned, moreover, to a fine of from 16 to 200 francs.

219. Assemblies, formed with or without arms, and accompanied by violence or threats, against the administrative authority, against the officers or agents of police, or against the public force,

1st. By workmen, or journeymen in public work-shops, or in manufactories;

2d. By individuals admitted into hospitals;

3d. By prisoners charged with offences, accused or condemned;

Shall be punished as assemblies of rebels.

220. The penalty awarded for rebellion, against prisoners

charged with, accused of, or condemned for, other crimes or delicts, shall be undergone by them as follows, namely;

By those who, for the crimes or delicts which shall have caused their detention, are or shall be condemned to a penalty, neither capital nor perpetual, immediately after the expiration of that punishment;

And by the others, immediately after the sentence or judgment in the last resort, which shall have acquitted them, or discharged them absolved, of the fact for which they were detained.

221. The leaders of a rebellion, and those who shall have incited it, may be condemned to remain, after the expiration of their punishment, under the special superintendence of the high police, during not less than five years, nor more than ten years.

§. II. *Outrages and Violences against the Depositaries of the Public Authority and Force.*

222. When one or more magistrates, of the administrative or judiciary order, shall have received, in the exercise of their functions, or on occasion of that exercise, any outrage, by means of words spoken, tending to inculpate their honour or delicacy; he who shall have thus insulted them, shall be punished with an imprisonment of from one month to two years.

If the outrage have taken place during the sitting of a court or tribunal, the imprisonment shall be from two years, to five years.

223. An outrage, committed by gestures or threats, upon a magistrate in the exercise, or on occasion of the exercise, of his functions, shall be punished with an imprisonment of from one month to six months; and if the outrage have taken place during the sitting of a court or tribunal, it shall be punished with an imprisonment of from one month to two years.

224. An outrage committed by words, gestures, or threats, upon any ministerial officer, agent, or depositary of the public force, in the exercise, or on occasion of the exercise, of his functions, shall be punished with a fine of from 16 to 200 francs.

225. The penalty shall be from six days to one month

of imprisonment, if the outrage mentioned in the preceding article has been directed against a commandant of the public force.

226. In the cases of articles 222, 223, and 225, the offender may be condemned, besides the imprisonment, to make an apology (*réparation*), either at the next sitting of the court, or by writing; and the time of the imprisonment awarded against him, shall be computed only from the day on which the apology shall have been made.

227. In the case of article 224, the offender may be also condemned, besides the fine, to make an apology to the offended person; and if he delay or refuse, he shall be compelled so to do, by imprisonment (*par corps*).

228. Every individual who, even without arms, and without any wound having ensued, shall have struck a magistrate, in the exercise, or on occasion of the exercise, of his functions, shall be punished with an imprisonment of from two to five years.

If such actual force has taken place during the sitting of a court or tribunal, the guilty person shall be punished with the pillory.

229. In both the cases expressed in the preceding article, the guilty person may, moreover, be condemned to remove himself, during a period of from five to ten years, from the place where the magistrate sits, and to a distance of two myriameters therefrom.*

This disposition shall be put into execution, reckoning from the day on which the condemned person shall have undergone his punishment.

If the condemned person infringe this order, before the expiration of the time fixed, he shall be punished with banishment.

230. Violences of the kind expressed in article 228, directed against a ministerial officer, an agent of the public force, or a citizen entrusted with a ministry of the public service, if they have taken place whilst such person was in the exercise of his ministry, or on that occasion; shall be punished with an imprisonment of from one month to six months.

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* About twelve English miles.

231. If the violences committed against the officers or agents designated in articles 228, and 230, have occasioned effusion of blood, wounds, or sickness, the penalty shall be solitary imprisonment; and if death have ensued therefrom, within forty days, the guilty person shall be punished with death.

232. Even in the case where such violences shall not have caused effusion of blood, wounds, or sickness; blows shall be punished with solitary imprisonment, if they have been given with premeditation or lying in wait.

233. If the wounds are of that description which bear the character of murder, the criminal shall be punished with death.

§. III. *Refusal of a Service legally due.*

234. Every commandant, officer, or sub-officer of the public force, who, having been legally required by the civil authority, shall refuse to put in action the force under his command, shall be punished with an imprisonment of from one month, to three months; without prejudice to the civil reparations which may be due, in terms of article 10 of the present code.

235. The penal laws and regulations relative to the military conscription, shall continue to be executed.

236. Witnesses and jurymen, who shall have alledged an excuse, discovered to be false, shall be condemned, besides the fines awarded for their non-attendance, to an imprisonment of from six days to two months.

§. IV. *Escape of Prisoners, and Concealment of Malefactors.*

237. Whenever an escape of detained persons shall take place, the serjeants *(huissiers)*, the commanders in chief, or subordinate officers, either of the patrole (*gendarmerie*), or of the armed force, serving as escorts, or guarding the posts, the keepers, wardens, jailers and other persons, appointed to watch, remove, or keep, the detained persons, shall be punished as follows:

238. If the person escaping was charged with delicts of police, or crimes merely infamous, or if he was a prisoner of war; the officers set over his guard or conduct, shall be

punished, in case of negligence, with an imprisonment of from six days to two months; and in case of connivance, with an imprisonment of from six months to two years.

Those who, not being entrusted with the guard or conduct of the detained person, shall have procured or facilitated his escape, shall be punished with an imprisonment of from six days to three months.

239. If the detained persons escaping, or any of them, were charged with, or accused of, a crime of such nature as to deserve an afflictive penalty for time, or were condemned for any of such crimes; the penalty shall be, against the persons set over the guard or conduct, in case of negligence, an imprisonment of from two to six months; and in case of connivance, solitary imprisonment.

The individuals, not entrusted with the guard of the detained persons, who shall have procured or facilitated their escape, shall be punished with an imprisonment, of from three months to two years.

240. If the escaped prisoners, or any of them, were charged with, or accused of, crimes of such a nature as to require the penalty of death, or any perpetual penalty; or if they have been condemned to any of those penalties; their conductors or keepers, shall be punished with an imprisonment, of from one year to two years, in case of negligence; and with hard labour for-time, in case of connivance.

The individuals, not entrusted with their conduct or guard, who shall have facilitated, or procured, such escape, shall be punished with an imprisonment of not less than one year, nor more than five years.

241. If the escape has taken place, or has been attempted, with violence or breaking of prison; the penalties, against those who shall have assisted it, by furnishing any instruments for the purpose, shall, in case the escaped person was of the description expressed in article 238, be from three months to two years of imprisonment; in case of article 239, from two to five years of imprisonment; and in case of article 240, solitary imprisonment.

242. In all the above cases, when the persons who shall have procured or facilitated the escape, shall have done it by corrupting the keepers or jailers, or by connivance with them; such other persons shall be punished with the same penalties as the said keepers or jailers.

243. If the escape, by breaking open or violence, has been assisted by the furnishing of arms, the keepers and conductors, who shall have participated therein, shall be punished with perpetual hard labour; the other persons, with hard labour for time.

244. All those who shall have connived at the escape of a prisoner shall be condemned, jointly and severally (*in solido*), by way of damages, to whatever the party, at whose suit such prisoner was detained, would have had a right to make him pay.

245. With respect to prisoners who shall have escaped, or attempted to escape, by breaking prison, or by violence, such prisoners shall, for this fact alone, be punished with an imprisonment, of from six months to one year; and shall undergo that penalty immediately after the expiration of that which they shall have incurred for the crime or delict for which they were detained, or immediately after the sentence or judgment which shall have acquitted them, or dismissed them absolved from the said crime or delict; all without prejudice to the more severe penalties which they may have incurred, for any other crimes which they may have committed in the course of their violence.

246. Whoever shall be condemned, for having assisted in an escape, or attempt at an escape, to an imprisonment of more than six months, may, moreover, be placed under the special superintendence of the high police, for a period of from five to ten years.

247. The penalties of imprisonment, above established, against the conductors or keepers, in case of negligence only, shall cease, when the escaped shall be retaken or produced; provided that it be within four months from the escape, and they be not arrested for other crimes or delicts, committed subsequent to such escape.

248. Those who shall have concealed, or caused to be concealed, any persons whom they knew to have committed crimes, requiring afflictive penalties, shall be punished with an imprisonment of not less than three months, nor more than two years.

The ascendants or descendants, husband or wife, even divorced, brothers or sisters of the criminals concealed, and the persons related to such criminals by affinity in the same degree, are excepted from the present disposition.

§. V. *Breaking Seals, and carrying off documents from the Public Depositories.*

249. When the seals put, either by command of government, or in consequence of any judicial order made in any legal proceeding, shall have been broken, the keepers shall be punished, for mere negligence, with an imprisonment of from six days to six months.

250. If the breaking of seals happen in regard to the papers or effects of an individual charged with, or accused of, a crime requiring the penalty of death, perpetual hard labour, or transportation, or condemned to any of those penalties; the negligent keeper shall be punished with an imprisonment of from six months to two years.

251. Whoever shall, intentionally, have broken any seals, put upon any papers or effects, of the quality expressed in the preceding article, or participated in such breaking of seals, shall be punished with solitary imprisonment; and if it be the keeper himself, he shall be punished with hard labour for time.

252. In regard to any other breaking of seals, the guilty persons shall be punished with an imprisonment of from six months to two years; and if it be the keeper himself, he shall be punished with an imprisonment of from two to five years.

253. Any theft, committed by means of breaking of seals, shall be punished as a theft committed by means of housebreaking (*effraction*).

254. As for the embezzlement, destruction, and carrying away of documents or proceedings, in criminal matters, or other papers, registers, records, and effects, contained in the archives, registers, or public depositories, or committed to any public depositary by reason of his office; the penalties shall be, against the registrars, keepers of archives, notaries, or other depositaries, for negligence, an imprisonment of from three months to one year, and a fine of from 100 to 300 francs.

255. Whoever shall have been guilty of the embezzlement, carrying away, or destruction mentioned in the preceding article, shall be punished with solitary imprisonment.

If the crime has been committed by the depositary himself, he shall be punished with hard labour for time.

256. If the breaking of seals, embezzlement, carrying away, or destruction of documents, has been committed with personal violence, the penalty against all persons concerned, shall be that of hard labour for time; without prejudice to more severe penalties, as the law may direct, according to the nature of the violences and other crimes connected with such offence.

§. VI. *Degradation of Monuments.*

257. Whoever shall destroy, pull down, mutilate, or remove, any monuments, statues, or other objects, intended for public utility or ornament, and erected by the public authority, or with its approbation, shall be punished with an imprisonment of from one month to two years, and a fine of from 100 to 500 francs.

§. VII. *Usurpation of Titles and Functions.*

258. Whoever shall, without title, intermeddle with any public, civil, or military function, or make the acts or records of any such function, shall be punished with an imprisonment of from two to five years; without prejudice to the penalty of forgery, if the act bear the character of that crime.

259. Every person who shall publicly wear a costume, uniform, or decoration, which does not belong to him, or who shall take upon himself any imperial titles, which have not been legally conferred upon him, shall be punished with an imprisonment of from six months to two years.

§. VIII. *Obstructions of the Free Exercise of Public Worship.*

260. Every individual who, by actual force, or threats, shall compel any one or more persons to exercise any of the authorized forms of religion; or to assist at the exercise of such form of religion; or to celebrate any particular festivals; or to observe any particular days of rest; and, by consequence, to open or close their work-shops or warehouses; or to do, or cease to do, any particular work; or who, by actual force or threats, shall hinder any one or more persons from so doing; shall be punished, for this fact alone, with a fine of from 16 to 200 francs, and an imprisonment of from six days to two months.

261. Those who shall hinder, retard, or interrupt, the exercise of any form of religious worship, by disturbances or disorders committed in the temple,* or other place intended or actually used for such exercise, shall be punished with a fine of from 16 to 300 francs, and an imprisonment of from six days to three months.

262. Every person who, by speeches or gestures, shall abuse the things used for the purposes of any religious worship, in the places intended or actually used for the exercise of it, or the ministers of such worship, in the exercise of their functions; shall be punished with a fine of from 16 to 500 francs, and an imprisonment of from fifteen days to six months.

263. Whoever shall strike the minister of any religious worship, in the exercise of his functions, shall be punished with the pillory.

264. The dispositions of the present paragraph, only apply to such disturbances, abuses, or actual force, the nature or circumstances of which shall not give occasion to more severe penalties, according to the other dispositions of the present Code.

SECTION V.

Associations of Malefactors, Vagrancy and Mendicity.

§. II. *Associations of Malefactors.*

265. Every association of malefactors against persons or property, is a crime against the public peace.

266. This crime is committed by the mere fact of the organization of bands, of correspondence between such bands, or their chiefs or commanders, or of making agreements to ren-

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* Protestant places of worship are, in France, usually called temples. It is proper to observe that the dispositions of this whole paragraph were principally intended for the protection of protestants, who, before the revolution, were subject to great oppression. Since the restoration of Louis XVIII. certain proceedings on the part of the magistrates, tending to punish the protestants for not conforming with some customs of the Catholic Church, such as adorning their houses on occasion of religious processions, have been reversed by the justice of the supreme court.

der any account, or make any distribution or division of the profits of delinquency.

267. When this crime shall not have been accompanied or followed by any other, the authors of it, that is to say, the directors of the association, and the commanders in chief, or subordinate commanders, of such bands, shall be punished with hard labour for time.

268. The penalty of solitary imprisonment shall be inflicted upon all other individuals, charged with any service whatever, in such bands, and upon those who shall have knowingly and willingly furnished to such bands, or their divisions, any arms, ammunition, instruments of crime, lodgings, retreat, or place of meeting.

§. II. *Vagrancy.*

269. Vagrancy, (*vagabondage*) is a *delict.*

270. Vagabonds, or unowned people (*gens sans aveu*), are those who have no certain domicile, or means of subsistence, and who do not habitually exercise any trade or profession.

271. The vagabonds, or unowned people, who have been legally declared to be so, shall, for that fact alone, be punished with an imprisonment of from three to six months; and shall remain, after they have undergone their penalty, at the disposal of the government, during the time which it shall determine, regard being had to their conduct.

272. The individuals declared vagabonds, by a judgment, may, if they are foreigners, be conveyed, by order of the government, out of the territory of the empire.

273. Vagabonds, born in France, may, after judgment, and even though such judgment has become final and conclusive (*passé en force de chose jugée*), be claimed by a resolution of the municipal council of the commune where they were born, or be bailed by a solvent citizen.

If the government admits the claim, or accepts the bail, the individuals, thus claimed or bailed, shall be, by its orders, sent back or conveyed to the commune which has claimed them, or to that which shall be appointed for their residence, upon the demand of the bail.

§. III. *Mendicity.*

274. Every person who shall be found begging, in a place for which there shall exist a public institution organized for the purpose of obviating mendicity, shall be punished with an imprisonment of from three to six months; and after the expiration of his punishment, shall be conveyed to the bridewell (*depôt de mendicité*).

275. In the places where there does not yet exist any such institution, habitual, sturdy beggars, shall be punished with an imprisonment of from one to three months.

If they have been arrested out of the canton where they reside, they shall be punished with an imprisonment of from six months to two years.

276. All beggars, even disabled persons, who shall have made use of threats, or shall have entered, without leave of the proprietor, or of the persons of his house, either into a habitation, or into any inclosure belonging thereto;

Or who shall feign wounds or infirmities;

Or who shall beg in company, unless they are husband and wife, father or mother and their young children, a blind man and his guide;

Shall be punished with an imprisonment of from six months to two years.

Dispositions common to Vagabonds and Beggars.

277. Every vagabond or beggar, who shall have been taken disguised, in any manner whatever, or carrying arms, though he may not have made use of them, or threatened therewith;

Or provided with files, pick-locks, or any other instruments adapted either to commit thefts or other delicts, or to procure him the means of getting into houses;

Shall be punished with an imprisonment of from two to five years.

278. Every beggar or vagabond, who shall be found in possession of property to the value of more than one hundred francs, and who shall not shew how he came by the same, shall be punished with the penalty pronounced in article 276.

279. Every beggar or vagabond, who shall have exer-

cised any act of personal violence whatever, shall be punished with solitary imprisonment; without prejudice to more severe penalties, if need be, according to the nature and circumstances of the violence.

280. Every vagabond or beggar, who shall have committed a crime, punishable with hard labour for time, shall, moreover, be branded.

281. The penalties established by the present Code, against individuals bearing false certificates, pass-ports, or route-papers, shall always, in their kind, be carried to the *maximum*, when they are applied to vagabonds or beggars.

282. The vagabonds or beggars who shall have undergone the penalties pronounced by the preceding articles, shall remain, at the expiration of those penalties, at the disposal of government.

SECTION VI.

Delicts committed in the Way of Writings, Images, or Engravings, distributed without the Names of the Authors, Printers, or Engravers.

283. Every publication, or distribution of works, writings, advertisements, bulletins, journals, periodical papers or other prints, which shall not contain a true indication of the names, profession, and abode of the author or printer, shall, on this account alone, be punished with an imprisonmentof from six days to six months, against every person who shall have knowingly contributed to such publication or distribution.

284. This disposition shall be reduced to penalties of simple police;

1st. In regard to the cryers, posters, venders, or distributers, who shall make known the person from whom they have received the printed writing;

2d. In regard to whoever shall make known the printer;

3d. In regard even to the printer who shall make known the author.

285. If the printed writing contains any incitement to crimes or delicts, the cryers, posters, sellers, and distributers shall be punished as accomplices of the inciters, unless they have made known those from whom they have received the writing containing such incitement.

In case of their giving such information, they shall only incur an imprisonment of from six days to three months; and the punishment of accomplices shall remain applicable only to those who shall not have made known the persons from whom they have received the printed writing; and to the printer, if he be known.

286. In all the above cases, the copies seized shall be confiscated.

287. Every exposure or distribution of songs, pamphlets, figures, or images, contrary to good manners, shall be punished with a fine of from 16 to 500 francs, an imprisonment of from one month to one year, and the confiscation of the copper-plates and printed or engraved copies of the songs, figures or other objects of such delict.

288. The penalty of imprisonment and fine, pronounced by the preceding article, shall be reduced to penalties of simple police;

1st. In regard to the cryers, venders, or distributers, who shall make known the person from whom they have received the object of the delict;

2d. In regard to whoever shall make known the printer or engraver;

3d. In regard even to the printer or engraver who shall make known the author, or the person who shall have entrusted them with the printing or engraving.

289. In all the cases expressed in the present section, and where the author shall be known, he shall undergo the *maximum* of the penalty attached to that kind of delict.

Particular Disposition.

290. Every individual who, without having been authorized by the police, shall carry on the trade of cryer or poster of printed writings, drawings, or engravings, even though they are furnished with the names of the author, printer, designer, or engraver, shall be punished with an imprisonment of from six days to two months.

SECTION VII.

Of unlawful Associations or Assemblies.

291. No association, of more than twenty persons, the object of which shall be that of meeting every day, or on certain fixed days, to discuss religious, literary, political, or other subjects, can be formed; except with the consent of the government, and under the conditions which the public authority shall be pleased to impose upon such society.

The persons, domiciled in the house where the association meets, shall not be counted in the number of persons indicated by the present article.

292. Every association, of the nature above expressed, which shall have been formed without authority, or which, after having obtained such authority, shall have broken the conditions imposed upon it, shall be dissolved.

The chiefs, directors, or administrators of the association shall, moreover, be punished with a fine of from 16 to 200 francs.

293. If, by discourses, exhortations, invocations, or prayers, in whatever language, or by readings, bills posted up, publication, or distribution of any writings whatever, there has been made, at such meetings, any incitement to any crimes or delicts, the penalty shall be a fine of from 100 to 300 francs, and an imprisonment of from three months to two years, against the chiefs, directors, or administrators of such associations; without prejudice to more severe penalties, which may be enacted by the law against the individuals personally guilty of the incitement, which persons shall not, in any case, be punished with penalties less severe than those inflicted upon the chiefs, directors, or administrators of the association.

294. Every individual who, without permission of the municipal authority, shall have granted, or consented to, the use of his house or apartment, in whole or in part, for the meeting of the members of an association, even authorized, or for the exercise of any religious worship, shall be punished with a fine of from 16 to 200 francs.

TITLE II.

Crimes and Delicts against Individuals.

[Law decreed February 17th, 1810, promulgated February 27th, 1810.]

CHAPTER I.

Crimes and Delicts against the Person.

SECTION I.

Murder and other Capital Crimes,—Threats of Bodily Injury.

§. 1. *Murder,—Assassination,—Parricide,—Infanticide,—Poisoning.**

295. HOMICIDE, committed wilfully, is denominated *murder.*

296. Every murder, committed with premeditation, or with lying in wait, is denominated *assassination.*

297. Premeditation consists in a design formed, before the action, of attacking the person of any particular individual, or even of any one who shall be found or met with, even though such design may be dependant upon some circumstance or condition.

298. Lying in wait, *(guet apens)*, consists in waiting, more or less time, in one or several places, for an individual, either to kill him, or to exercise against him any act of violence.

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* The article Homicide occupies 25 pages of Mr. Evans's Book, and refers to 20 Acts of Parliament.

299. The murder of fathers or mothers, legitimate, natural, or adoptive, or of any other legitimate ascendant, is denominated *parricide.*

300. The murder of a new born infant is denominated *infanticide.*

301. Every attempt upon the life of a person, by means of substances which may occasion death, more or less quickly, in whatever manner such substances may have been employed or administered, and whatever may have been the effects thereof, is denominated *poisoning.*

302. Every person guilty of assassination, parricide, infanticide, or poisoning, shall be punished with death; without prejudice to the special disposition contained in article 13, relative to parricide.

303. All malefactors, of whatever denomination, who, for the execution of their crimes, make use of tortures, or commit acts of barbarity, shall be punished as guilty of assassination.

304. Murder shall be punished with death, whenever it shall have preceded, accompanied, or followed any other crime or delict.

In all other cases, the person guilty of murder shall be punished with perpetual hard labour,

§. II. *Threats.*

305. Whoever, by any writing, anonymous or signed, shall have threatened any one with assassination, poisoning, or any other personal attack, punishable with death, perpetual hard labour, or transportation, shall be punished with hard labour for time, in case such threat shall have been accompanied by any order to deposit a sum of money in any particular place, or to perform any other condition.

306. If such threat has not been accompanied by any order or condition, the penalty shall be an imprisonment of not less than two years, nor more than five years, and a fine of from 100 to 600 francs.

307. If such threat, with order, or upon condition, shall be made verbally, the criminal shall be punished with an imprisonment of from six months to two years, and a fine of from 25 to 300 francs.

308. In the cases provided for by the two preceding arti-

cles, the criminal may, moreover, be placed, by sentence or judgment, under the superintendence of the high police, for not less than five years, nor more than ten years.

SECTION II.

Wilful Wounds and Blows, not amounting to Murder, and other wilful Crimes and Delicts.

309. Every individual, who shall have given any wounds or blows, shall be punished with solitary imprisonment, if there shall have resulted from such acts of violence, a sickness or inability to work, for more than twenty days.

310. If the crime, mentioned in the preceding article, has been committed with premeditation, or with lying in wait, the penalty shall be that of hard labour for time.

311. When the wounds or blows shall not have occasioned any sickness, or inability to work, of the kind mentioned in article 309, the offender shall be punished with an imprisonment of from one month to two years, and a fine of from 16 to 200 francs.

If there has been premeditation, or lying in wait, the imprisonment shall be from two to five years, and the fine from 50 to 500 francs.

312. In the cases provided for by articles 309, 310, and 311, if the criminal has committed the crime against his father or mother, legitimate, natural, or adoptive, or other legitimate ascendants, he shall be punished as follows:

If the article to which the case shall relate, pronounces imprisonment and fine, the guilty person shall undergo the penalty of solitary imprisonment;

If the article pronounces the penalty of solitary imprisonment, he shall undergo that of hard labour for time;

If the article pronounces the penalty of hard labour for time, he shall undergo that of perpetual hard labour.

313. If the crimes and delicts, provided for in the present and preceding sections, have been committed in a seditious assembly, with rebellion, or pillage, they are imputable to the chiefs, authors, instigators, and inciters of such assembly, rebellion, or pillage; who shall be punished as

guilty of such crimes or delicts, and condemned to the same penalties as are awarded against those who have personally committed them.

314. Every individual who shall fabricate or sell, stilettoes, blunderbusses *(tromblons)*, or any kind of arms, prohibited by law, or by the regulations of public administration, shall be punished with an imprisonment of from six days to six months.

Whoever shall be in possession of such arms, shall be punished with a fine of from 16 to 200 francs.

In both cases, the arms shall be confiscated.

All without prejudice to more severe penalties, if need be, in case of their being accomplices in crimes.

315. Besides the correctional penalties, mentioned in the preceding articles, the tribunals may direct the person convicted, to be placed under the special superintendence of the high police, for from two years to ten years.

316. Every person, guilty of the crime of castration, shall undergo the penalty of perpetual hard labour.

If death has resulted therefrom, before the expiration of forty days, next after the crime, the criminal shall undergo the penalty of death.

317. Whoever, by means of substances to be swallowed, either solid or liquid; by medicines; by violence; or by any other means; shall have caused the miscarriage of a woman with child, whether she has consented to it or not, shall be punished with solitary imprisonment.

The same penalty shall be awarded against the woman who shall have procured her own miscarriage, or shall have consented to make use of the means prescribed to her, or administered for that purpose, if the miscarriage has actually ensued therefrom.

The physicians, surgeons, and other officers of health, who shall have prescribed or administered such means, shall be condemned to hard labour for time, if the miscarriage has actually taken place.

318. Whoever shall have sold adulterated liquors, containing mixtures prejudicial to health, shall be punished with an imprisonment of from six days to two years, and a fine of from 16 to 500 francs.

The adulterated liquors, which shall be found belonging to the vender or retailer, shall be seized and confiscated.

SECTION III.

Involuntary Homicide, Wounds and Blows;—Excusable Crimes and Delicts, and Cases not admitting Excuse, —Homicide, Wounds, and Blows, which are neither Crimes nor Delicts.*

§. I. *Involuntary Homicide, Wounds, and Blows.*

319. Whoever, by unskilfulness, imprudence, heedlessness, negligence, or non-observance of rules, shall have committed a homicide involuntarily, or shall have been involuntarily the cause of it, shall be punished with an imprisonment of from three months to two years, and a fine of from 50 to 600 francs.

320. If only wounds or blows have resulted from such want of skill or caution, the imprisonment shall be from six days to two months, and the fine from 16 to 100 francs.

§. II. *Excusable Crimes and Delicts, and Cases not admitting Excuse.*

321. Murder, as well as wounds and blows, are excusable, if they have been provoked by blows, or grievous personal violence.

322. The crimes and delicts, mentioned in the preceding articles, are likewise excusable, if they have been committed in repelling, by day-time, the scaling or breaking open of the inclosures, walls, or entries of a house, or inhabited apartment, or of the appurtenances thereof.

If the fact has happened in the night, this case is governed by article 329.

323. Parricide is never excusable.

324. Murder, committed by the husband, upon his wife, or by the wife, upon her husband, is not excusable, if the life of the husband or wife, who has committed such murder, has not been put in peril, at the very moment when the murder has taken place.

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* It will be seen, by the following articles, that the cases called excusable are not exempt from punishment, but the punishment is mitigated.

Nevertheless, in the case of adultery, provided for by article 336, murder committed upon the wife as well as upon her accomplice, at the moment when the husband shall have caught them in the fact, in the house where the husband and wife dwell, is excusable.

325. The crime of castration, if it has been immediately provoked by a violent outrage to chastity, shall be considered as an excusable murder or wound.

326. When the fact of excuse shall be proved:

If it be the case of a crime punishable with death, perpetual hard labour, or transportation, the penalty shall be reduced to an imprisonment, of from one year to five years;

If it be the case of any other crime, the penalty shall be reduced to an imprisonment of from six months to two years;

In these two first cases, the criminal may be placed, by the sentence or judgment, under the superintendence of the high police, for not less than five years, nor more than ten years;

If it be the case of a delict, the penalty shall be reduced to an imprisonment, of from six days to six months.

§. III. *Homicide, Wounds, and Blows, not denominated Crimes or Delicts.*

327. There is neither crime nor delict, when the homicide, wounds, and blows, were ordained by the law, and commanded by lawful authority.

328. There is neither crime nor delict, when the homicide, wounds, and blows, were commanded by the actual necessity of lawful self-defence, or defence of another person.

329. The two following cases are reckoned among those of actual necessity of defence.

1st. If the homicide has been committed, the wounds occasioned, or the blows given, in repelling, during the night, the scaling or breaking open of the inclosures, walls, or entries, of a house or inhabited apartments, or of the appurtenances thereof.

2d. If the fact has taken place in self-defence, again the actors of thefts or robbery, committed with violenc

SECTION IV.

*Attacks upon Morals.**

330. Whoever shall commit any public outrage against modesty, shall be punished with an imprisonment of from three months to one year, and a fine of from 16 to 200 francs.

331. Whoever shall commit the crime of rape, or shall be guilty of any other attack upon modesty, consummated or attempted, with violence, against an individual of either sex, shall be punished with solitary imprisonment.

332. If the crime has been committed upon the person of an infant, under the age of fifteen years complete, the criminal shall undergo the penalty of hard labour for time.

333. The penalty shall be perpetual hard labour, if the criminals are of the class of those who have authority over the persons upon whom they have made such attack; if they are the instructors or hired servants of such person; or if they are public officers, or ministers of worship; or if the criminal, whoever he may be, has been assisted in his crime by one or more other persons.

334. Whoever shall have attacked morals, by exciting, favouring, or facilitating, habitually, debauchery or corruption in the youth of both sexes, under the age of twenty-one years, shall be punished with an imprisonment of from six months to two years, and a fine of from 50 to 500 francs.

If the prostitution or corruption has been excited, favoured, and facilitated by their fathers, mothers, guardians, or other persons entrusted with their superintendence, the penalty shall be an imprisonment of from two to five years, and a fine of from 300 to 1,000 francs.

335. The persons guilty of the delict mentioned in the preceding article, shall be interdicted from all guardianship or trusteeship *(tutelle ou curatelle)*, and from all participation in family councils; to wit, the individuals to whom the first paragraph of that article applies, during not less than two years nor more than five years; and those mentioned in the second paragraph, during not less than ten years nor more than twenty years.

* This subject, and that of the 2d paragraph of section VI. are provided for by 13 English Acts of Parliament, occupying as many pages of Mr. Evans's Book.

If the delict has been committed by the father or mother, the criminal shall, moreover, be deprived of the rights and privileges, allowed to him, over the person and property of the child, by the Code Napoleon, Book I. Title IX. *of the Paternal Power.*

In all cases, the criminals may be placed, by the sentence or judgment, under the superintendence of the high police; observing, as to the duration of such superintendence, what has been just before directed as to the duration of the interdiction, mentioned in the present article.

336. The adultery of the wife cannot be denounced, except by the husband; nor by him, if he be in the case provided for by article 339.

337. The wife, convicted of adultery, shall undergo the penalty of imprisonment, during not less than three months, nor more than two years.

The husband shall have the power of stopping the effect of this condemnation, by consenting to take his wife again.

338. The accomplice of the adulterous wife shall be punished with imprisonment, during the same space of time, and, moreover, with a fine of from 100 to 2,000 francs.

The only proofs which can be admitted against the person charged as an accomplice, (except his being taken in the fact) shall be such as result from letters or other papers, written by the person accused.

339. The husband, who shall keep a concubine in the house where he and his wife live, and who shall be convicted, upon the complaint of the wife, shall be punished with a fine of from 100 to 2,000 francs.

340. Whoever, being engaged in the bond of wedlock, shall contract a second marriage, before the dissolution of the preceding one, shall be punished with hard labour for time.

The public officer, who shall perform his office in regard to such a marriage, knowing the existence of the preceding one, shall be condemned to the same penalty.

SECTION V.

*Illegal Arrests, and Sequestrations of Persons.**

341. The penalty of hard labour for time shall be inflicted upon those who, without order from the constituted authorities, and out of the cases where the law directs the seizing of persons charged with offences, shall have arrested, detained, or sequestered any persons whomsoever.

Whoever shall have afforded a place for the purpose of such detention or sequestration, shall undergo the same penalty.

342. If the detention or sequestration has lasted more than one month, the penalty shall be that of perpetual hard labour.

343. The penalty shall be reduced to an imprisonment of from two to five years, if the persons guilty of the delicts, mentioned in article 341, while not yet actually prosecuted, have set at liberty the person arrested, sequestered, or detained, before the tenth day complete, after that of the arrest, detention, or sequestration. They may, nevertheless, be placed under the superintendence of the high police, during from five to ten years.

344. In each of the three following cases:

1st. If the arrest has been executed with a false costume, under a false name, or upon a false order of the public authority;

2d. If the arrested, detained, or sequestered individual has been threatened with death;

3d. If he has been put to corporal tortures;

The criminals shall be punished with death.

SECTION VI.

Crimes and Delicts tending to hinder or destroy the Proof of the civil State of a Child, or to endanger its Life;—Stealing of Minors;—Breach of the Laws respecting Interments.

§. I. *Crimes and Delicts towards Children.*†

345. The persons guilty of stealing, concealing, or sup-

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* This section corresponds to the Habeas Corpus Act.

† One English Act of Parliament has recently passed, to punish the crime of child-stealing.

pressing a child; of substituting one child for another; or of imposing a child upon the world, as the offspring of a woman who has not been actually delivered; shall be punished with solitary imprisonment.

The same penalty shall be inflicted upon those who, being entrusted with a child, shall not produce it to the persons who have a right to claim it.

346. Every person who, having assisted at a delivery, shall not have made the declaration, directed by article 56, of the Code Napoleon,* within the time fixed by article 55, of the same Code,† shall be punished with an imprisonment of from six days to six months, and a fine of from 16 to 300 francs.

347. Every person who, having found a new-born child, shall not bring it to the officer of the civil state, as directed by article 58 of the Code Napoleon, shall be punished with the penalties established in the preceding article.

The present disposition is not applicable to the person who shall have consented to take charge of the child, and shall have made his declaration in that behalf, before the municipality of the place where the child has been found.

348. Those who shall have taken to an hospital, a child under the age of seven years complete, which shall have been entrusted to them to be taken care of, or for any other cause, shall be punished with an imprisonment of from six weeks to six months, and a fine of from 16 to 50 francs.

Nevertheless, no penalty shall be awarded, if they were not bound, or had not obliged themselves, to provide, without pay, for the nurture and support of the child, and if nobody had made such provision.

349. Those who shall have exposed and abandoned, in a solitary place, a child under the age of seven years complete; those who shall have given the order so to expose it, if such order has been executed; shall, for this fact alone, be condemned to an imprisonment of from six months to two years, and a fine of from 16 to 200 francs.

350. The penalty, mentioned in the preceding article, shall be from two years to five years, and the fine from 50 to 400 francs, against the guardians or teachers of the child exposed and abandoned by them, or by their order.

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* This declaration is to be made for the purpose of registering the child's birth.

† Three days.

351. If, in consequence of the exposure and abandonment, provided for by articles 349 and 350, the child has become mutilated or lamed, the act shall be considered as wilful wounds given to it by the person who shall have exposed or abandoned it; and if death has ensued, the act shall be considered as murder: in the first case, the criminals shall undergo the penalty applicable to wilful wounds; and in the second case, that of murder.

352. Those who shall have exposed or abandoned, in a place not solitary, a child under the age of seven years complete, shall be punished with an imprisonment of from three months to one year, and a fine of from 16 to 100 francs.

353. The delict, foreseen by the present article, shall be punished with an imprisonment of from six months to two years, and a fine of from 25 to 200 francs, if it has been committed by the guardians or teachers of the child.

§. II. *Stealing of Minors.*

354. Whoever, by fraud or violence, shall steal, or cause to be stolen, any minors; or shall spirit away, seduce or remove them; or cause them to be spirited away, seduced, or removed, from the places where they were placed by those to whose authority or direction they had been submitted or entrusted, shall undergo the penalty of solitary imprisonment.

355. If the person, thus stolen or seduced, is a girl under the age of sixteen years complete, the penalty shall be that of hard labour for time.

356. When the girl, under the age of sixteen years, shall have consented to such stealing, or shall have voluntarily followed the seducer, this latter, if he was twenty-one years of age or more, shall be condemned to hard labour for time.

If the seducer was not twenty-one years of age, he shall be punished with an imprisonment of from two to five years.

357. In case the seducer shall have married the girl whom he has stolen, he can only be prosecuted, upon the complaint of those persons who, by the Code Napoleon, have the right of requiring such marriage to be declared void; and he can only be condemned when the marriage has been declared void.

§. III. *Breaches of the Laws respecting Interments.*

358. Those who shall cause a deceased person to be buried, without the previous authority of the public officer, in cases where such authority is required, shall be punished with an imprisonment of from six days to two months, and a fine of from 16 to 50 francs; without prejudice to the prosecution of any other crimes with which the authors of this delict may be charged under such circumstances.

The same penalty shall be inflicted upon those who shall contravene, in any manner whatever, the law and regulations relative to premature interments.

359. Whoever shall have concealed or hidden the corpse of a person murdered, or dead in consequence of blows and wounds, shall be punished with an imprisonment of from six months to two years, and a fine of from 50 to 400 francs; without prejudice to more severe penalties, if he has taken part in the crime.

360. Whoever shall have been guilty of violating graves or burying-places, shall be punished with an imprisonment of from three months to one year, and a fine of from 16 to 200 francs; without prejudice to the penalties against the other crimes and delicts which may be connected with this one.

SECTION VII.

False Evidence, Calumny, Slander, and Disclosure of Secrets.

§. I. *False Evidence.*

361. Whoever shall be guilty of false evidence, in a criminal matter, either against the accused, or in his favour, shall be punished with the penalty of hard labour for time.

Nevertheless, if the party accused has been condemned to a penalty more severe than that of hard labour for time, the false witness who has deposed against him, shall suffer the same penalty.

362. Whoever shall have been guilty of false evidence, in a correctional matter, or in a matter of police, either against the person charged, or in his favour, shall be punished with solitary imprisonment.

363. The person guilty of false evidence, in a civil matter, shall be punished with the penalty established in the preceding article.

364. The false witness, in a correctional or civil matter, or a matter of police, who shall have received any money, reward, or promise, shall be punished with hard labour for time.

In every case, what the false witness shall have received shall be confiscated.

365. The person guilty of subornation of witnesses shall be condemned to hard labour for time, if the false evidence, which has been the object of such subornation, is punishable with solitary imprisonment; to perpetual hard labour, if the false evidence is punishable with hard labour for time, or transportation; and to the penalty of death, when the false evidence shall be punishable with perpetual hard labour, or capital punishment.

366. The party to whom the oath shall have been tendered or referred, in a civil matter, and who shall have made a false oath, shall be punished with civic degradation.*

§. II. *Calumny, Slander, and Disclosure of Secrets.*

367. He, who either in public places or assemblies, or in a public and authentic act or deed; or in any writing, printed or not printed, which shall have been posted up, sold, or

* This article applies to the provisions of the French law, for examining the parties to a cause.

In certain cases, a party may require his adversary to confess or deny the matter in question, upon oath: he to whom the oath is so tendered (*déféré*), may either answer upon oath, or refer, *i. e.* tender back the oath to the other; and the refusal of this last, or the oath of either party, to whom it is so tendered, must decide the cause. This is called the decisory oath.

In certain cases, where the proof would be otherwise insufficient, the judge may finally decide the cause upon the oath of one party; and this resembles the suppletory oath of the civil law.

Code Napoleon, article 1357, to article 1369.

distributed; shall have imputed to any individual whatever, facts, which, if they really existed, would expose the person, against whom they are charged, to criminal or correctional prosecution, or even would only expose him to the contempt or hatred of the citizens; shall be guilty of the delict of calumny.*

The present disposition is not applicable to facts, the publication whereof is authorised by the law; nor to those which the author of the imputation was, by the nature of his functions or duties, obliged to disclose or repress.

368. Every imputation, in support of which legal proof is not produced, is presumed to be false; consequently, the author of the imputation shall not be allowed, in his defence, to require that the falsehood be proved; nor can he allege, as matter of excuse, either that the publications or facts are notorious, or that the imputations, which give rise to the prosecution, have been copied or extracted from foreign papers or other printed writings.

369. The calumnies, published by means of foreign papers, may support a prosecution against those who shall have sent the articles, or ordered them to be inserted, or contributed to the introduction or distribution of such papers in France.

370. When the imputed fact shall be legally proved true, the author of the imputation shall not be liable to any penalty.

No proof shall be considered legal but that which results from a judgment, or some other authentic act.

371. When the legal proof shall not be produced, the calumniator shall be punished with the following penalties:

If the imputed fact is of such a nature as to deserve the penalty of death, perpetual hard labour, or transportation, the criminal shall be punished with an imprisonment of from two to five years, and a fine of from 200 to 5,000 francs.

In all other cases, the imprisonment shall be from one month to six months, and the fine from 50 to 2,000 francs.

372. When the imputed facts shall be punishable by law, and the author of the imputation shall have denounced them, the prosecution and judgment of the delict of calumny, shall be respited during the proceedings upon the prosecution for the imputed facts.

* Calumny, being a delict, is tried without the intervention of a jury. This has been complained of, and the subject, at present, (1819), occupies the attention of the French legislators.

373. Whoever shall have made, in writing, a calumnious denunciation against one or more individuals, to the officers of justice, or of the administrative or judiciary police, shall be punished with an imprisonment of from one month to one year, and a fine of from 100 to 3,000 francs.

374. In *all* cases, the calumniator shall be interdicted from the rights mentioned in article 42, of the present Code, during not less than five years' reckoning, nor more than ten years, from the day on which he shall have undergone his punishment.

375. As for slanders, or other insulting expressions, which do not include the imputation of any precise fact, but that of some particular vice; if they have been uttered in public places or assemblies, or inserted in writings, printed or not printed, which shall have been circulated and distributed; the penalty shall be a fine of from 16 to 500 francs.

376. All other slanders, or insulting expressions, which shall not have the above double character of gravity and publicity, shall only be punished with penalties of mere police.

377. In regard to the imputations and abuse, which may be inserted in writings relative to the defence of the parties, or in pleadings; the judges, who are in possession of the cause, may, in giving judgment, either award the suppression of the abuse, or abusive writings, or give admonitions (*injonctions*), to the authors of the delict, or suspend them from their functions, and also decide upon the damages.

The duration of such suspension shall not exceed six months; in case of repeated offence, it shall be of not less than one year, nor more than five years.

If the abuse, or abusive writings, bear the character of grave calumny, and the judges in possession of the cause cannot take cognizance of the delict, they can only award, against the persons charged with calumny, a provisional suspension of their functions, and shall send them to trial for the delict, before the competent judges.

378. The physicians, surgeons, and other officers of health, likewise the apothecaries and midwifes, and all other persons, to whom, in consequence of their state or profession, secrets are confided, and who, except in cases where the law obliges them to give information, shall

have disclosed such secrets; shall be punished with an imprisonment of from one month to six months, and a fine of from 100 to 500 francs.

CHAPTER II.

Crimes and Delicts against Property.

[Law decreed February 19th, 1810, promulgated March 1st, 1810.]

SECTION II.

*Thefts.**

379. Whoever has fraudulently abstracted a thing which does not belong to him, is guilty of theft.

380. The abstractions which are committed by husbands to the prejudice of their wives;† by wives to the prejudice of their husbands; by a widower or a widow, as to the things which had belonged to the deceased spouse; by children or other descendants, to the prejudice of their fathers, mothers, or other ascendants; by fathers, mothers, or other ascendants, to the prejudice of their children, or other descendants; or by persons related by affinity in the same degrees; shall not afford ground for any thing more than civil reparations.

In regard to all other individuals, who shall have concealed, or applied to their own use, the whole or a part of the stolen goods, they shall be punished as guilty of theft.‡

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* Under the head of Larceny, &c. Mr. Evans cites 51 Acts of Parliament, extending to 62 pages of his Book.

† The French law, like the civil, considers the husband and wife as distinct persons, capable of having separate property.

‡ See note to article 62.

381. The penalty of death shall be inflicted upon the individuals guilty of theft, committed with the aggravation of all the five circumstances following:

1st. If the theft has been committed by night;

2d. If the theft has been committed by two or more persons;

3d. If the criminals, or any of them, were in possession of arms, apparent or concealed;

4th. If they have committed the crime;

Either by means of extend house-breaking (*effraction exterieure*), or of scaling, or of false keys, in a house, apartment, chamber, or lodgings, inhabited or used for habitation, or their appurtenances;

Or by assuming the title of a public functionary, or civil or military officer, or dressed in the uniform or costume of such functionary, or officer, or by alleging a false order of the civil or military authority.

5th. If they have committed the crime with violence, or threats of making use of their arms.

382. The penalty of perpetual hard labour shall be inflicted upon every individual guilty of theft, committed by means of violence, and, moreover, with any two of the first four circumstances enumerated in the preceding article.

If the violence, with which the theft has been committed, has left marks of wounds or bruises, this circumstance alone shall suffice, that the penalty of perpetual hard labour shall be awarded.

383. Thefts, committed on the highways, shall also be punishable with perpetual hard labour.

384. The penalty of hard labour for time shall be inflicted upon every individual guilty of theft, committed by any of the means expressed in number 4 of article 381, even though the breaking, scaling, or use of false keys, may have taken place in buildings, parks, or inclosures, not used for habitation, or not belonging to inhabited houses, and though the breaking may have been only interior.

385. The penalty of hard labour for time shall, in like manner, be inflicted upon every individual guilty of theft committed, either with violence, when it shall not have left any mark of wound or bruise, and shall not have been accompanied by any other circumstance of aggravation; or without violence, but with the aggravation of all the three following circumstances:

1st. If the theft has been committed by night;

2d. If it has been committed by two or more persons;

3d. If the criminals, or any of them, were in possession of arms, apparent or concealed.

386. The penalty of solitary imprisonment shall be inflicted upon every individual guilty of theft, committed in any one of the following cases:

1st. If the theft has been committed by night, and by two or more persons; or if it has been committed with one only of those two circumstances, but also in a place inhabited or used for habitation.

2d. If the criminals, or any of them, were in possession of arms, apparent or concealed; even though the place where the theft has been committed, was neither inhabited nor used for habitation, and though the theft has been committed in the day, and by one person only.

3d. If the thief is a domestic servant, or person working for wages, even when he shall have committed the theft against persons whom he did not serve, but who were either in the house of his master, or in that to which the criminal did accompany him; or if he is a workman, mate (*compagnon*), or apprentice, in the house, workshop, or warehouse of his master; or an individual, working habitually in the habitation where he shall have stolen.

4th. If the theft has been committed by an innkeeper, tavernkeeper, carrier, or boatman, or any of their overseers (*préposés*), when they shall have stolen the whole or a part of the things entrusted to them in that quality; or, lastly, if the criminal has committed the theft in the inn where he was received.

387. Carriers, boatmen, or their overseers, who shall have altered any wines, or any other sort of liquors or merchandize, whereof the carriage had been entrusted to them, and who shall have committed such alteration, by the admixture of unwholesome substances, shall be punished with the penalty established in the preceding article.

If there has not been an admixture of unwholesome substances, the penalty shall be an imprisonment of from one month to one year, and a fine of from 16 to 100 francs.

388. Whoever shall have stolen, in the fields, any horses, or beasts, used for bearing burthens, drawing, or riding; any great or small cattle, instruments of agriculture, crops, or stacks of grain, forming part of crops; shall be punished with solitary imprisonment.

The same rule shall hold good in regard to timber, stolen from the places where it is felled (*ventes*), and to stone, stolen from the quarry; also with regard to fish, stolen from ponds, preserves, or reservoirs.

389. The same penalty shall take place, if, to commit the theft, there has been any carrying off or displacing of land-marks.

390. Every building, lodging, lodge, or hut, even moveable, which, though not actually inhabited, is intended for habitation, is considered an inhabited house; so likewise all the dependencies thereof, as courts, yards, barns, stables, and buildings, which are inclosed therein, whatever may be the use thereof, and even though they may have a particular inclosure within the general inclosure or fence (*enceinte*).

391. Every ground (*terrain*), is considered a park or inclosure, when it is surrounded by ditches, stakes, hurdles, planks, hedges, either of quickset or of dead-wood, or by walls, of whatever materials, and whatever may be the height, depth, antiquity, or decay of those different inclosures, though there be no gate shutting with a lock or otherwise, or though the gate should afford a passage (*serait à claire voie*), and be left constantly open.

392. The moveable pens, intended to hold cattle in the country, of whatever materials they may be formed, are also considered as inclosures; and when they are connected with moveable huts or other shelters, intended for the keepers, they are considered as depending upon an inhabited house.

393. By breaking is meant, any forcing open, fracture, pulling down, demolishing, or carrying away, of walls, roofs, floors, doors, windows, locks, pad locks, or other utensils or instruments, used for shutting or for preventing a free passage; and of any other kind of inclosure whatsoever.

394. Breaking is either exterior or interior.

395. Exterior breakings are those by means of which houses, courts, yards, inclosures, or dependencies, or the apartments or lodgings of an individual, are entered.

396. Interior breakings are those which, after the entry into the places mentioned in the preceding article, are made of inner-doors or inclosures; also of cupboards or other articles of furniture, which are shut.

The mere carrying away of chests, boxes, bales packed

with cloth and cordage; or other closed articles, containing any effects whatever, is considered as an interior breaking, notwithstanding that such things have not been broken open upon the spot.

397. Every entry into houses, buildings, courts, yards, edifices of whatever kind, gardens, parks, or inclosures, effected by getting over the walls, doors, roofing (*toitures*), or any other inclosure, is denominated scaling.

The entering, by any subterraneous passage, other than that which has been established to serve as an entry, is a circumstance of the same gravity as scaling.

398. All hooks, pick-locks, master-keys, keys imitated, counterfeited, or altered; or which were not intended by the proprietor, tenant, innkeeper, or lodger, for the locks, padlocks, or any other fastenings, to which the criminal shall have applied them, are denominated false keys.

399. Whoever shall have counterfeited or altered any keys, shall be condemned to an imprisonment of from three months to two years, and a fine of from 25 to 150 francs.

If the criminal is a locksmith by profession, he shall be punished with solitary imprisonment.

All, without prejudice to more severe penalties, if need be, in case of his being an accomplice of crime.

400. Whoever shall have extorted, by force, violence, or constraint, the signature or surrender (*remise*), of any writing, act, or legal instrument; or of any document whatever, containing or operating any obligation, conveyance, or release; shall be punished with hard labour for time.

401. All other thefts, not mentioned in the present section; all acts of stealth and larceny; and all attempts to commit those delicts; shall be punished with an imprisonment of not less than one year, nor more than five years; and may also be punished with a fine of not less than 16 nor more than 500 francs.

The criminals may also be interdicted from the rights mentioned in article 42, of the present Code, during not less than five years, nor more than ten years, reckoning from the day when they shall have undergone their punishment.

They may also be placed, by the sentence or judgment, under the superintendence of the high police, duing the same number of years.

SECTION II.

Bankruptcies, Swindlings, and other Kinds of Fraud.

§. I. *Bankruptcy and Swindling* (Escroquerie).

402. Those who, in the cases provided for by the Code of Commerce, shall be declared guilty of bankruptcy, shall be punished as follows:

Fraudulent bankrupts shall be punished with hard labour for time;

Simple bankrupts shall be punished with an imprisonment of not less than one month, nor more than two years.*

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* It must be observed, that by the French law (as by the more ancient English acts of parliament) the word Bankruptcy implies an offence. The simple insolvency of a trader is called failure (*faillite*); the culpable insolvent is called a bankrupt.

It is thought proper to subjoin those articles of the Code of Commerce which establish the distinctions above referred to. It is a frequent subject of complaint, that some such distinctions are wanting in the English Law, which denounces capital punishment against the bankrupt, for a concealment to the amount of £20, but does not provide any effectual correction for the other more common offences mentioned below.

CODE DE COMMERCE.—Art. 437. *Every trader who stops payment is in a state of* failure.

438. *Every trader who fails, and who falls under one of the cases of culpability or fraud provided for by the present law, is in a state of* bankruptcy.

439. *There are two kinds of bankruptcies:* Simple Bankruptcy; *It shall be tried by the correctional tribunals.*

Fraudulent Bankruptcy; *It shall be tried by the courts of criminal justice.*

440. *Every* failer *shall be bound, within three days from the time when he stops payment, to make a declaration thereof at the registry of the tribunal of commerce; the day on which he stops shall be reckoned one of the three.*

In case of failure of a partnership under a firm, the declaration of the failer *shall contain the name and indication of the domicile of each of the general partners* (associés solidaires).

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586. *The* failing *trader who shall fall under one or more of the following cases, to wit:*

1st. *If his household expences, which he is bound to enter month by month, in his journal, are considered excessive;*

2nd. *If he is found to have wasted large sums in gaming, or dealings of mere chance;*

3rd. *If it appears from his last stock-taking that he has incurred considerable debts, while his credit* (actif) *was 50 per cent below his debit* (passif), *and if he has sold again wares to a loss, or below the market price;*

403. Those who, conformably to the Code of Commerce shall be declared accomplices of fraudulent bankruptcy,

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4th. *If he has signed notes or bills* (a donné des signatures de crédit ou de circulation) *to an amount equal to three times his credit, according to his last stock taking;*

May be prosecuted as a simple bankrupt, *and declared such.*

587. *The* failer *who has not made at the registry the declaration prescribed by Art.* 440;

He who, having absented himself, shall not present himself in person to the commissioners (agens), *and to the assignees* (syndics), *within the time fixed, and without lawful excuse;*

He who, having a partnership, shall not conform himself to Art. 440;

May be prosecuted as a simple bankrupt, *and declared such.*

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593. *Every* failing *trader who shall fall under one or more of the following cases, to wit:*

1st. *If he has set up any fictitious expenses or losses, or does not shew how he has applied all his receipts;*

2nd. *If he has embezzled* (détourné) *any sum of money, credit, merchandise, wares, or moveables;*

3rd. *If he has made any fictitious sales, bargains, or gifts;*

4th. *If he has made any fictitious debts, by collusion with pretended creditors, by means of simulated writings, or by making himself debtor, without consideration or value received, by public acts or engagements under private signature;*

5th. *If, having received upon a special commission* (mandat), *or for safe custody, any commercial goods, wares, or merchandises, he has, to the prejudice of the consigner or owner, applied to his own use the goods so received, or the value of them;*

6th. *If he has bought moveable or immoveable goods in another person's name;*

7th. *If he has concealed his books;*

Shall be declared a fraudulent bankrupt.

594. *The* failer *who has kept no books, or whose books do not shew his true situation of debit and credit;*

He who, having obtained a safe conduct, shall not surrender himself to justice;

May be prosecuted as a fradulent bankrupt, *and declared such.*

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597. *The individuals convicted of having had an understanding with the bankrupt, for the purpose of concealing or withdrawing all or part of his moveable or immoveable goods; those convicted of having obtained from him fictitious credits, and who, at the proof of their debts, shall persist in making them pass as real and* bona fide;

Shall be declared accomplices *of the fradulent bankrupts, and condemned to the same penalties as the accused.*

598. *The same judgment which shall award the penalties against the* accomplices *of fraudulent bankrupts shall condemn them,*

1st. *To refund to the general creditors the goods, rights, and actions fraudulently withdrawn;*

2nd. *To pay to the said general creditors, damages equal to the sum of which they have attempted to defraud them.*

shall be punished with the same penalty as the fraudulent bankrupts.

404. Exchange brokers, and brokers, who have failed, shall be punished with hard labour for time; if they are convicted of fraudulent bankruptcy, the penalty shall be that of perpetual hard labour.

405. Whoever, either by making use of false names or descriptions; or by using fraudulent contrivances to induce the belief of false speculations, or of imaginary means or credit, or to suggest the hope or fear of any success, accident, or other chimerical event; shall procure to be remitted or delivered to him, any funds, moveables, obligations, dispositions, bills, promises, acquittances, or releases; and shall, by any of these means, fraudulently obtain, or attempt to obtain, the whole or part of the fortune of others; shall be punished with an imprisonment of not less than one year, nor more than five years, and a fine of not less than 50 francs, nor more than 3,000 francs.

The criminal may, moreover, be interdicted from the rights mentioned in article 42 of the present code, during not less than five years, nor more than ten years, to be reckoned from the day on which he shall have undergone his penalty; all without prejudice to more severe penalties, if the crime of forgery has been committed.

§. II. *Abuse of Confidence.*

406. Whoever shall have abused the wants, weaknesses, or passions of a minor, to induce him to subscribe, to his own prejudice, any obligations, releases, or discharges, in consideration of the loan of money or moveable goods, or of commercial paper (*effets*), or any other securities, under whatever form such negociation may have been made or disguised; shall be punished with an imprisonment of not less than two months, nor more than two years, and a fine which may neither exceed the fourth part of the restitutions and damages which shall be due to the parties injured, nor be less than 25 francs.

The disposition established in the second paragraph of the preceding article, may, moreover, be applied.

407. Whoever, abusing a paper signed in blank, (*blanc-seing*), which has been entrusted to him, shall have fraudulently written upon it any obligation or discharge, or any other act which may endanger the person or fortune of

the subscriber (*signataire*), shall be punished with the penalties established in Article 405.

In case the blank signature shall not have been entrusted to him, he shall be prosecuted as a forger, and punished as such.

408. Whoever shall have embezzled or squandered, in prejudice of the proprietor, possessor, or holder, any effects, money, goods, bills, releases, or other writings, containing or operating any obligation or discharge, which shall have been only committed to him as a deposit, or to be kept with a compensation for his trouble, under the condition of restoring or producing them, or of making some particular use or employment of them; shall be punished with the penalties established in Article 406.

All without prejudice to what is said in Articles 254, 255, and 256, in relation to the abstraction and carrying away of money, effects, or documents, placed in public depositories.

409. Whoever, after having produced, in a judiciary cause, any document, paper, or memorial, shall have substracted it in any manner whatever, shall be punished with a fine of from 25 to 300 francs.

This penalty shall be awarded by the tribunal in possession of the cause.

§. III. *Offences against the Regulations with respect to Gaming-houses, Lotteries, and Pawnbrokers'-offices.*

410. Those who shall keep any house for games of chance, to which the public shall be admitted, either indiscriminately, or upon the introduction of persons interested or initiated; the bankers of such house; all those who shall have established or kept any lottery not authorised by law; all managers, overseers, or agents of any such establishment; shall be punished with an imprisonment of not less than two months, nor more than six months, and a fine of from 100 to 6,000 francs.*

* The English and French law resemble each other in prohibitions of all unlicensed lotteries; and it is too evident that, in both cases, the intention is not that of preserving public morals, but that of securing to the public treasury, as much as possible of the gain if it can with propriety be so called,) which may be derived from the practice.

It may, however, be hoped, that the exertions of Mr. Lyttelton will soon effect an entire abolition of the English lotteries. This notice cannot add to that gentleman's honour, but it would be an act of ingratitude to omit the mention of his name.

The offenders may, moreover, be interdicted from the rights mentioned in Article 42 of the present Code, during not less than five years nor more than ten years, to be reckoned from the day when they shall have undergone their punishment.

In all cases, the funds or effects which shall be found exposed in the game, or put in the lottery; the furniture, instruments, utensils, and implements employed in, or intended for the use of, the games or lotteries; the furniture and moveable effects with which the places shall be furnished or adorned; shall be confiscated.

411. Those who shall establish or keep offices for lending money upon pledges or pawns, without legal authority; or who, having such authority, shall not keep a register, conformably to the regulations, containing consecutively, without blank or interlineation, the sums or things lent, the names, domiciles, and professions of the borrowers, and the nature, quality, and value of the things pledged; shall be punished with an imprisonment of not less than fifteen days, nor more than three months, and a fine of from 100 to 2,000 francs.

§. IV. *Impediments to the Freedom of bidding at Auctions.*

412. Those who, at the disposal of the property, usufruct, or letting out, of moveable or immoveable goods, of any contract or distress (*exploitation*), or of any work whatever, shall have impeded or disturbed the liberty of biddings or tenders (*soumissions*), by actual force, violence, or threats, either before or during the time of taking such biddings or tenders; shall be punished with an imprisonment of not less than fifteen days, nor more than one year, and a fine of not less than 100 nor more than 5,000 francs.

The same penalty shall be inflicted upon those who shall get the bidders out of the way by gifts or promises.

§. V. *Breach of the Regulations relative to Manufactures, to Commerce, and the Arts.*

413. Every breach of the regulations of public administration, relative to the produce of the French manufactures, which shall be exported to foreign countries; the object of which regulations is to warrant the good quality, the dimensions, and the nature of the fabric; shall be punished with a fine of not less than 200 nor more than 3,000 francs, and

confiscation of the goods. These two penalties may be awarded, accumulatively or separately, according to circumstances.

414. Every combination among those who employ workmen, tending to enforce, unjustly and abusively, the diminution of wages, followed by an attempt or commencement of execution, shall be punished with an imprisonment of from six days to one month, and a fine of from 200 to 3,000 francs.

415. Every combination, on the part of the workmen, to cease working, all at the same time; to forbid work being done in any particular shop; to hinder any one from going thereto and remaining therein, before or after certain hours; and, in general, to suspend or hinder the works, or raise the wages thereof; shall be punished with an imprisonment of from one month to three months, if there has been an attempt or commencement of execution.

The chiefs or movers shall be punished with an imprisonment of from two to five years.

416. The penalty, established in the preceding article, with the same distinctions, shall be inflicted upon the workmen, who shall have awarded any fines, prohibitions, interdictions, or any proscriptions, by the name of "*damning*," or by any other name whatever; either against the directors of work-shops, or undertakers of works, or against each other.

In the cases of the present and preceding articles, the chiefs or movers of the delict may, after the expiration of their punishment, be placed under the superintendence of the high police, during not less than two years, nor more than five years.

417. Whoever, with a view to injure French industry, shall have caused to pass into foreign countries, any directors, clerks, or workmen, of any establishment, shall be punished with an imprisonment of from six months to two years, and a fine of from 50 to 300 francs.*

418. Every director, clerk, or manufacturer, who shall

* The English law carries this principle still further, and pronounces heavy penalties of fine and imprisonment against any artificer who shall attempt to emigrate. Prosecutions are sometimes instituted for this offence, but we believe that they are not effectual in preventing emigration, and, so far as they do operate, produce harm rather than good.

communicate to foreigners, or to Frenchmen resident in foreign countries, any secrets of the manufacture in which he is employed, shall be punished with solitary imprisonment, and a fine of from 500 to 20,000 francs.

If those secrets have been communicated to Frenchmen, living in France, the penalty shall be an imprisonment of from three months to two years, and a fine of from 16 to 200 francs.

419. Those who, by false or slanderous reports, purposely spread among the people; or by offering higher prices than those which were asked by the venders themselves; or by coalitions or combinations among the principal holders of the same kind of merchandize or provisions, tending to prevent such goods being sold at all, or being sold under a certain price; or by any fraudulent ways or means whatever, shall have effected the enhancement or reduction of the price of provisions or merchandize; or of the public securities and stocks, above or below the prices which would have been determined by the free and natural competition of trade; shall be punished with an imprisonment of not less than one month, nor more than one year, and a fine of from 500 to 10,000 francs. The offenders may, moreover, be placed, by sentence or judgment, under the superintendence of the high police, during not less than two years, nor more than five years.

420. The penalty shall be an imprisonment of not less than two months, nor more than two years, and a fine of from 1,000 to 20,000 francs, if such contrivances have been practised upon corn, grain, flour, farinaceous substances, bread, wine, or any kind of liquor.

The placing under superintendence, which may be awarded, shall be for not less than five years, nor more than ten years.

421. Wagers, made upon the high or low price of the public funds, shall be punished with the penalties established in article 419.

422. Every agreement to sell, or deliver up, any public funds, which the vender shall not prove that he either had at his disposal, at the time of the agreement, or had a right to have at his disposal, at the time of the delivery, shall be considered as a wager of this kind.*

* As the French law does not allow any action to be maintained upon a mere wager, or gaming debt, (Code Napoleon, article 1965) this disposi-

423. Whoever shall have cheated the purchaser in the standard of gold and silver articles; in the quality of a false stone, sold as a precious one; or in the nature of any goods; whoever, by use of false weights or measures, shall have cheated in the quantity of the things sold; shall be punished with an imprisonment of not less than three months, nor more than one year, and a fine which must neither exceed the fourth-part of the restitutions and damages, nor be under 50 francs.

The objects of the delict, or the value thereof, if they still belong to the vender, shall be confiscated; the false weights and measures shall also be confiscated; and, moreover, broken.

424. If the vender and purchaser have made use, in their bargains, of other weights or measures than those which have been established by the laws of the state, the purchaser shall be deprived of all action against the vender, who shall have cheated him by the use of the forbidden weights or measures; without prejudice to the public prosecution, for the purpose of punishing, as well this fraud, as the use of the forbidden weights and measures.

The penalty, in case of fraud, shall be that expressed in the preceding example.

The penalty, for the use of prohibited weights or measures, shall be determined by the fourth book of the present Code, which contains the penalties of simple police.

425. Every edition of writings, of musical compositions, of drawings, paintings, or any other production, wholly or in part, printed or engraved, in contempt of the laws and regulations relative to the property of authors, is a counterfeiting; and every counterfeiting is a delict.

426. The sale of counterfeited works, the introduction into the French territory of works which, after having been printed in France, have been counterfeited in foreign countries, are delicts of the same kind.

427. The penalty against the counterfeiter or the intro-

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tion is less anomalous than the Act 7th Geo. 2, c. 8, made to prevent what is there called the infamous practice of stockjobbing.

Public opinion does dot go along with this declaration of the English law; and it is certainly difficult to perceive any real objection to the morality of stock-jobbing, which does not apply equally to all contracts in the nature of wagers or games of chance.

ducer, shall be a fine of not less than 100 nor more than 2,000 francs; and against the seller a fine of not less than 25 nor more than 500 francs.

The confiscation of the counterfeited edition shall be awarded, as well against the counterfeiter as against the introducer and the seller.

The plates, moulds, or dies, of the counterfeited objects, shall also be confiscated.

428. Every director or undertaker of a spectacle, every company of performers, who shall cause to be represented at their theatre, any dramatic works, in contempt of the laws and regulations relative to the property of authors; shall be punished with a fine of not less than 50 nor more than 500 francs, and with the confiscation of the receipts.

429. In the cases provided for by the four preceding articles, the produce of the confiscations, or the confiscated receipts, shall be paid to the proprietor, to indemnify him for so much of the damage which he shall have sustained; the remainder of his indemnification, or the entire indemnification, if there has been neither sale of confiscated objects, nor confiscation of receipts, shall be settled in the ordinary way.

§. VI. *Delicts of Contractors.*

430. All individuals entrusted, either as members of a partnership, or individually, with contracts, undertakings, or managements, on account of the land or sea forces; who, without being constrained by superior power, shall have permitted the service with which they are intrusted to fail; shall be punished with solitary imprisonment, and with a fine which must neither exceed the fourth-part of the damages, nor be under 500 francs; all without prejudice to more severe penalties, in case of intelligence with the enemy.

431. When the failure of service shall proceed from the act of the agents of the contractors, the agents shall be condemned to the penalties established by the preceding article.

The contractors and their agents shall be equally condemned, when both shall have participated in the crime.

432. If any public officers or agents, or persons employed or paid by the government, have assisted the guilty persons

in making the service fail, they shall be punished with hard labour for time, without prejudice to more severe penalties, in case of intelligence with the enemy.

433. Though the service has not failed, yet if, by negligence, the deliveries or works have been delayed; or if there has been fraud in the nature, quality, or quantity, of the works or workmanship, or of the things furnished; the offenders shall be punished with an imprisonment of not less than six months, nor more than five years, and with a fine which must neither exceed the fourth-part of the damages, nor be less than 100 francs.

In the different cases provided for by the articles composing the present paragraph, no prosecution can take place, except upon the denunciation of government.

SECTION III.

Destruction, Spoil, and Damage.

434. Whoever shall wilfully set fire to any buildings, ships, boats, warehouses, dock or timber yards; woods, underwoods, or crops, either standing or cut down; and whether the wood be in heaps or cords, and the crops in heaps or stacks; or to combustible materials, so placed as to communicate the fire to such objects, or any of them; shall be punished with death.

435. The penalty shall be the same, against those who shall have destroyed, by means of a mine, any buildings, ships, or boats.

436. The threat of burning a habitation, or any other property, shall be punished with the penalty provided against the threat of assassination, and according to the distinctions established by articles 305, 306, and 307.

437. Whoever shall wilfully destroy or throw down, by any means whatever, in whole or in part, any buildings, bridges, piers, at cause-ways; or any other constructions which he knew to belong to others; shall be punished with solitary imprisonment, and a fine which must neither exceed the fourth part of the restitutions and damages, nor be under 100 francs.

If homicide or wounds have taken place, the criminal shall be punished, with death in the first case, and with hard labour for time in the second case.

438. Whoever, by actual force, shall oppose the completion of works authorised by government, shall be punished with an imprisonment of from three months to two years, and with a fine which may not exceed the fourth part of the damages, nor be under 16 francs.

The movers shall undergo the *maximum* of the penalty.

439. Whoever shall wilfully burn or destroy, by any means whatever, any registers, minutes, or original acts of public authority; any deeds, notes, bills of exchange, banking or commercial papers, containing or operating any obligation, conveyance, or release; shall be punished as follows:

If the destroyed papers are acts of public authority, commercial or banking papers, the penalty shall be solitary imprisonment;

In case of any other papers, the criminal shall be punished with an imprisonment of from two to five years, and a fine of from 100 to 300 francs.

440. All pillage or waste of provisions or goods, effects, or moveable property, committed by assemblies or bands, and with open force, shall be punished with hard labour for time; each of the criminals shall, moreover, be condemned to a fine of from 200 to 5,000 francs.

441. Nevertheless, those who shall prove that they were seduced by incitements or solicitations, to take part in such violences, *may* be punished with solitary imprisonment only.

442. If the provisions, plundered or destroyed, are corn, grain, flour, farinaceous substances, bread, wine, or liquor of any kind, the penalty which shall be inflicted, upon the chiefs, instigators, or inciters only, shall be the *maximum* of hard labour for time, and the *maximum* of the fine pronounced by article 440.

443. Whoever, by means of a corrosive liquor, or by any other means, shall have wilfully spoiled any wares or materials, used for manufacture, shall be punished with an imprisonment of from one month to two years, and a fine which must neither exceed the fourth-part of the damages, nor be less than 16 francs.

If the delict has been committed by a workman of the manufacture, or a clerk of the commercial house, the im-

prisonment shall be from two years to five years, without prejudice to the fine, as is just above said.

444. Whoever shall have laid waste any standing crops, or any plants, growing naturally or by means of cultivation, shall be punished with an imprisonment of not less than two years, nor more than five years.

The criminals may, moreover, be placed, by sentence or judgment, under the superintendence of the high police, during not less than five years nor more than ten years.

445. Whoever shall have felled one or more trees, which he knew to belong to others, shall be punished with an imprisonment of not less than six days, nor more than six months, for each tree; so that the whole imprisonment do not exceed five years.

446. The penalties shall be the same for each tree mutilated, cut, or stripped of the bark, so as to cause it to perish.

447. If there has been a destruction of one or more grafts, the imprisonment shall be from six days to two months, for each graft; so that the whole imprisonment do not exceed two years.

448. The *minimum* of the penalty shall be twenty days, in the cases provided for by articles 445 and 446; and ten days, in the case provided for by article 447, if the trees were planted in the squares, ways, streets, public or cross roads, or ways through fields.

449. Whoever shall have cut any grain or forage, which he knew to belong to others, shall be punished with an imprisonment of not less than six days, nor more than two months.

450. The imprisonment shall be not less than twenty days, nor more than four months, if the grain has been cut green.

In the cases provided for by the present and the six preceding articles, if the fact has been committed out of spite against a public officer, and by reason of his functions, the offender shall be punished with the *maximum* of the penalty, established by the article to which the case shall relate.

It shall be the same, though this latter circumstance may not exist, if the fact has been committed in the night.

451. Every fracture or destruction, of agricultural instruments, of folds for cattle, or of the keepers' huts; shall be punished with an imprisonment of not less than one month, nor more than one year.

452. Whoever shall have poisoned any horses, or other beasts used for drawing, riding, or bearing burdens; any horned cattle, sheep, goats, or swine; or fish in ponds, preserves, or reservoirs; shall be punished with an imprisonment of from one year to five years, and a fine of from 16 to 300 francs. The offenders may be placed, by sentence or judgment, under the superintendence of the high police, for not less than two years, nor more than five years.

453. Those who, without necessity, shall have killed any of the animals mentioned in the preceding article, shall be punished as follows:

If the delict has been committed in the buildings, inclosures, or dependencies, or upon the lands of which the owner of the animal was proprietor, tenant, cultivator, or farmer, the penalty shall be imprisonment from two to six months.

If it has been committed in any places of which the offender was proprietor, tenant, cultivator, or farmer, the imprisonment shall be from six days to one month.

If it has been committed in any other place, the imprisonment shall be from fifteen days to six weeks.

The *maximum* of the penalty shall always be awarded, in case of breach of inclosures.

454. Whoever shall, without necessity, kill a domestic animal, in a place of which the person to whom such animal bolongs, is proprietor, tenant, cultivator, or farmer; shall be punished with an imprisonment of not less than six days, nor more than six months.

If there has been a breach of inclosure, the *maximum* of the penalty shall always be awarded.

455. In the cases provided for by articles 444 and the following, up to the preceding article, inclusively, a fine shall be awarded, which must neither exceed the fourth-part of the restitutions and damages, nor be under 16 francs.

456. Whoever shall, in whole, or in part, fill up any ditches; destroy any inclosures, of whatever materials the same are made; cut down or pull up any quick or dead hedges; displace or remove any land-marks, or trees which

mark the limits of cutting wood in a forest (*pieds corniers*); or other trees, planted or known to establish the limits between different estates; shall be punished with an imprisonment, which must not be less than one month, nor exceed one year; and a fine, which shall be equal to the fourth-part of the restitutions and damages, and which must not, in any case, be less than 50 francs.

457. The proprietors, farmers, or other persons, making use of mills, forges, or ponds; who, by raising their sluices, above the heights fixed by the competent authority, shall inundate the roads, or the properties of others; shall be punished with a fine, which must not exceed one-fourth of the restitutions and damages, nor be under 50 francs.

If any waste (*dégradation*), shall have resulted, the penalty shall be, besides the fine, imprisonment from six days to one month.

458. The combustion of the moveable or immoveable properties of others, which shall have been caused by the decay, or the default of repair or cleansing, of the adjoining ovens, chimneys, smithies, houses, or forges; or by any fires kindled in the fields, within a hundred metres* from the houses, buildings, forests, heaths, woods, orchards, plantations, hedges, stacks, heaps of grain, straw, hay, or forage, or any other deposit of combustible materials; or by fires or lights, carried or left, without sufficient care; or by fireworks, kindled or let off, negligently or imprudently; shall be punished with a fine of not less than 50 nor more than 500 francs.

459. Every owner or keeper of animals or cattle, suspected of being infected with contagious distempers, who shall not have immediately given notice to the mayor of the commune where such animals are, and who, even before the mayor may have given an answer to such notice, shall not have kept them shut up; shall be punished with an imprisonment of from six days to two months, and a fine of from 16 to 200 francs.

460. Those who, in contempt of the prohibitions of the administration, shall have left their infected animals or cattle to communicate with other animals or cattle; shall be punished with imprisonment from two months to six months, and a fine of from 100 to 500 francs.

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* About 200 yards English.

461. If, from the communication mentioned in the preceding article, any contagion has resulted among the other animals; those who shall have contravened the prohibitions of the administrative authority, shall be punished with imprisonment from two years to five years, and a fine of from 100 to 1,000 francs; all without prejudice to the execution of the laws and regulations relative to distempers among cattle, and to the application of the penalties established therein.

462. If the delicts of correctional police, which are mentioned in the present chapter, have been committed by any rural or forest-guards, or officers of police, of any description whatever; the penalty of imprisonment shall be, one month at least, and one-third at most, more than the most severe penalty which should be inflicted upon any other person guilty of the same delict.

General Disposition.

463. In all the cases where the penalty of imprisonment is established by the present Code, if the damage done does not exceed 25 francs, and if the circumstances appear extenuating, the tribunals are authorized to reduce the imprisonment even under six days, and the fine even under 16 francs. They may also award either the one or the other of these penalties separately; so that, in no case, the penalty be less than the penalties of mere police.

BOOK THE FOURTH.

OFFENCES of POLICE, and PENALTIES.

[Law decreed February 20th, 1810, promulgated March 2d, 1810.]

CHAPTER I.

Of Penalties.

464. The penalties of police are,

1st. Imprisonment;

2d. Fine;

3d. Confiscation of certain objects seized.

465. The imprisonment for offences of police must not be less than one day nor more than five days, according to the classes, distinctions, and cases, hereafter specified.

The days of imprisonment are complete days, of four and twenty hours.

466. The fines, awarded for offences of police may be from 1 to 15 francs, inclusively, according to the classes and distinctions hereafter specified, and shall be applied to the use of the *commune*, where the offence shall have been committed.

467. The payment of the fine may be enforced by imprisonment of the person.

Nevertheless, the condemned person must not be, for that reason, detained more than fifteen days, if he proves himself to be insolvent.

468. In case of insufficiency of effects, the restitutions and indemnifications, due to the offended person, shall be levied before the fine.

469. Payment of the restitutions, indemnifications, and costs, shall be enforced by imprisonment of the person;

The condemned person shall remain in prison till complete payment is made; nevertheless, if such condemnations are awarded for the benefit of the state, the condemned persons may have the benefit of article 467, in the case of insolvency provided for by that article.

470. The tribunals of police may also, in the cases determined by the law, award the confiscation, either of the things seized in offence, or of the things produced by the offence; or of the materials or instruments which have been used, or intended to be used, to commit it.

CHAPTER II.

Contraventions and Penalties.

SECTION I.

FIRST CLASS.

471. 1st. Those who shall neglect to keep in good repair, or clean, the ovens, chimneys, or mills (*usines*), where fire is used;

2d. Those who shall infringe the prohibitions of letting off, in certain places, any fire-works;

3d. The innkeepers and other persons, who, being obliged to keep up lights, shall neglect this duty; those who shall neglect to clean the streets and passages in the *communes*, where this charge is imposed upon the inhabitants;

4th. Those who shall stop the public road, by placing or leaving therein, without necessity, any materials, or other objects whatever, which prevent or diminish the freedom or safety of passage; those who, in contravention of the laws and regulations, shall neglect to illuminate the materials by them placed, or the excavations by them made, in the streets or squares;

5th. Those who shall neglect, or refuse to execute the regulations or orders concerning scavenging, or to obey the notices, issuing from the administrative authority, to repair or pull down buildings, which are in danger of falling;

6th. Those who shall lay or expose, before their buildings, any things of a nature to do injury, by falling, or by unwholesome exhalations;

7th. Those who shall leave in the streets, roads, squares, or public places, or in the fields, any plough-shares, crows, bars, rails, or other machines or instruments, or arms, whereof thieves and other malefactors may make a bad use;

8th. Those who shall neglect to clear away caterpillars, from fields or gardens, where this obligation is imposed by the law or regulations;

9th. Those who, without any other aggravation provided for by the laws, shall have plucked or eaten upon the spot, any fruit belonging to others;

10th. Those who, without any other aggravation, shall have gleaned, raked, or plucked grapes, either in fields not entirely stripped and cleared of the crop, or before sunrise, or after sunset;

11th. Those who, without provocation, shall pronounce against any one, injurious expressions, other than those provided for from article 367 to article 378, inclusively;

12th. Those who shall have imprudently thrown filth upon any one;

13th. Those who, having neither the property nor the usufruct, nor being the tenants, farmers, or occupiers, of any ground or right of passage, nor being the agents or overseers of any of such persons, shall enter into, or pass over, such ground, or any part thereof, when it is tilled or sown;

14th. Those who shall leave their cattle, or beasts of draught, burthen, or carriage, upon the land of others, before the crop is carried off;

Shall be punished with a fine, from one to five francs, inclusively.

472. The fire-works, seized in case of number 2 of article 471, the plough-shares, instruments, and arms, mentioned in number 7 of the same article, shall, moreover, be confiscated.

473. The penalty of imprisonment, for three days at most, may, moreover, be awarded, according to the circumstances, against those who shall have let off fire-works; and against those who shall have gleaned, raked, or plucked grapes, contrary to number 10 of article 471.

474. The penalty of imprisonment, during not more than three days, shall always take place against the persons mentioned in article 471, in case of relapse.

SECTION II.

SECOND CLASS.

475. 1st. Those who shall break the rules (*bans*), of vintage or other bans, authorized by the regulations;

2d. The innkeepers, tavernkeepers, letters of lodgings, or of furnished houses, who shall neglect to enter, consecutively, and without any blank, in a register regularly kept, the names, qualities, habitual domicile, dates of coming and going away, of every person who shall sleep or pass the night in their houses; those who shall fail to produce such register at the times fixed by the regulations, or when they shall be thereto required, to the mayors, adjuncts, officers, or commissaries of police, or other citizens, authorized for that purpose: all without prejudice to the cases of responsibility, mentioned in article 73 of the present Code, in relation to the crimes or delicts of those who, having lodged or sojourned at such houses, shall not have been regularly entered in the register;

3d. The waggoners, carmen, conductors of carriages, or beasts of burden, who shall offend against the regulations by which they are obliged to keep constantly near their horses, beasts of draught or burden, and carriages, so as to be able to guide and conduct them; to keep their own side of the streets, ways, or public roads; to swerve off, or stand on one side, before any other carriages; and, at the approach thereof, to leave them, at least one-half of the streets, causeways, ways, and roads, free;

4th. Those who shall cause or allow their horses, beasts of draught, burden, or carriage, to run into any

habitation; or shall break the regulations concerning the over-loading, furious or bad driving of carriages;

5th. Those who shall establish or keep, in the streets, roads, squares, or public places, any lotteries, or other games of chance;

6th. Those who shall vend or retail any adulterated liquors: without prejudice to the more severe penalties, which shall be awarded by the tribunals of correctional police, in case they shall contain any mixtures prejudicial to health;

7th. Those who shall allow to go at large the ideots or insane persons, who were under their care, or any mischievous or wild animals; those who shall set on, or shall not hold back, their dogs, when they attack or run after passengers, even though no mischief or damage may have resulted therefrom;

8th. Those who shall throw stones or other hard substances or filth, against the houses, buildings, or inclosures of others, or into gardens or inclosures; and those also who shall wilfully throw hard substances or filth at any person;

9th. Those who having neither the property, usufruct, nor occupation of any ground, or right of passage, shall enter into, or pass through, the same, while such ground is covered with corn in the stalk, or with grapes or other fruit, ripe, or near maturity;

10th. Those who shall cause or allow any cattle, beasts of draught, burden, or carriage, to pass over the ground of others, sown or covered with crop, in any season whatever, or through any underwood belonging to others;

11th. Those who shall refuse to receive the national specie or coin, not being counterfeit or altered, at the value for which the same has currency;*

12th. Those who, though able, shall refuse or neglect to do the work or service, or to give the assistance, required of them in case of accidents, riots, shipwreck,

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* This has been a subject of frequent legislation in England, and will, no doubt, continue to be so, as long as Parliament shall imagine that it possesses the power of making men hold in equal estimation different currencies, of unequal intrinsic value, whether made of gold, silver, or paper: or, knowing this to be impossible, shall still have reasons for attempting to make men act as if they did believe such currencies to be equally valuable.

inundation, fires, or other misfortunes, or in case of robberies, pillages, flagrant delict, hue and cry, or judiciary execution;

13th. The persons mentioned in articles 284 and 288 of the present Code;

Shall be punished with a fine from six to ten francs, inclusively.

476. An imprisonment, for three days at most, may, according to the circumstances, be awarded, besides the fine established in the preceding article, against the offending waggoners, carmen, carriers and conductors; against those who shall offend against the law, concerning the furious or bad driving, or overloading of carriages or animals; against the sellers and retailers of adulterated liquors; and against those who shall throw any hard substances or filth.

477. The following objects shall be seized and confiscated:

1st. The tables, instruments, and utensils of games or lotteries, established in the streets, ways, and public roads; as also the stakes, funds, wares, objects, or prizes, proposed to the adventurers in the case of article 475;

2d. The adulterated liquors, found belonging to the seller and retailer: such liquors shall be thrown away;

3d. The writings or engravings, contrary to good manners: such objects shall be destroyed.

478. The penalty of imprisonment, during five days at most, shall always be awarded, in case of relapse, against the persons mentioned in article 475.

SECTION III.

THIRD CLASS.

479. 1st. Those who, out of the cases provided for from article 434, to (and including) article 462, shall wilfully do any damage to the moveable properties of others;

2d. Those who shall occasion the death or wounds of the beasts or cattle of others, by means of leaving at large ideots or insane persons, or mischievous and wild animals, or of the furious or bad driving or over-loading of horses, carriages, beasts of draught, burden, or carriage;

3d. Those who shall occasion the same damages, by means of the careless or unskilful employment or use of arms, or by throwing stones or other hard substances;

4th. Those who shall occasion the same damages, by the decay, waste, want of repair or keeping, of houses or buildings; or by means of incumbrances, excavations, or other such like works, within or near the streets, ways, squares, or public roads, without the precautions or signals ordered or usual;

5th. Those who shall have false weights or measures in their warehouses, shops, work-shops, or counting houses; or in the halls, fairs, or markets: without prejudice to the penalties which shall be awarded, by the tribunals of correctional police, against those who shall have made use of such false weights or measures;

6th. Those who shall make use of weights or measures different from those established by the laws in force;

7th. The persons who exercise the profession of divining, or prognosticating, or of explaining dreams;

8th. The authors or accomplices of injurious or nocturnal noises or rackets, disturbing the tranquillity of the inhabitants;

Shall be punished with a fine of from eleven to fifteen francs, inclusively.

480. The penalty of imprisonment, during five days at most, may be pronounced, according to the circumstances, against; 1st. Those who shall occasion the death or wounding of animals, or cattle belonging to others, in the cases provided for by number 3 of the preceding article; 2d. The possessors of false weights or measures; 3d. Those who make use of weights or measures, different from those which the law in force has established; 4th. The interpreters of dreams; 5th. The authors or accomplices of injurious or nocturnal noises or rackets.

481. 1st. The false weights and measures, as also the weights different from those established by law; 2d. The instruments, utensils, and dresses, employed, or intended to be employed, in the exercise of the profession of a diviner, prognosticator, or interpreter of dreams; shall, moreover, be seized and confiscated.

482. The penalty of imprisonment, for five days, shall always take place, in case of relapse, against the persons and in the cases mentioned in article 479.

Dispositions common to the above three Sections.

483. There is relapse in all the cases provided for by the present book, whenever there has been pronounced against the offending person, within the twelve months preceding, a first judgment for an offence of police, committed within the jurisdiction of the same tribunal.

General Disposition.

484. In all the matters, not settled by the present Code, and which are settled by particular laws and regulations, the courts and tribunals shall continue to observe them.



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